

1 political process. Political interest is considered one
2 of the best predictors of voter turnout. As the
3 controller for motivation to participate in the electoral
4 process, Mikoff and his colleagues assert that there's
5 little reason to believe that voter ID laws would induce a
6 person's desire to vote. Their study found that photo
7 identification laws do not effect turnout.

8 Americans in general support photo ID laws
9 for good reason. First, there's little evidence to
10 suggest that these policies disenfranchised voters.
11 Second, voter ID laws are a common-sense policy to help
12 ensure the integrity of elections.

13 CHAIRMAN SMITH: Let me start your clock.

14 Q. (By Chairman Smith) You mentioned -- I want to
15 get my hands a little bit around -- I have so many
16 documents behind me, I have had trouble identifying the
17 report that I'm looking for.

18 In terms of the report studies that are out
19 there and the attempt to look at this issue and the extent
20 to which these laws have affected turnouts, it's my
21 understanding -- we've got your study, which I'm getting a
22 bottom line conclusion is concluding that there's no
23 effect on voter turnout; is that right?

24 A. Right.

25 Q. We've got this University of Delaware and



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309

1 University of Nebraska professor's study that was in
2 Political Science Magazine?

3 A. The Mikoff study.

4 Q. That's an indication that there's no effect?
5 That's their conclusion, correct?

6 A. Yes.

7 Q. And then we've got a Missouri study. And did
8 they not, in fact, determine that they thought it had a
9 positive impact on turnout?

10 A. Well, basically what the state found basically
11 that percentage of votes actually increased, but also
12 found that the law had no effect even though the raw
13 number suggests that voter turnout increased by 2 percent.

14 Q. So, they found the law itself had no effect?

15 A. Yes.

16 Q. And so, there is a study out there on the other
17 side of this issue that indicates a 2 point
18 something percent adverse effect in turnout.

19 What study is that?

20 A. I'm not sure off the hand. I know that there's
21 been a study that compares states that use very weak
22 statistical techniques that I would not consider a very
23 rigorous study.

24 Q. What study was that?

25 A. I believe it's a study that compared Indiana to



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310

1 another state that had Professor Brennan's --

2 Q. Was that the Brennan Department or --

3 A. I can't remember offhand.

4 Q. So, I'm trying desperately to find out in that
5 study what they were comparing, what to what?

6 A. What they were controlling for, too. That's very
7 important, too.

8 CHAIRMAN SMITH: Okay. Any questions,
9 members, of this witness? Representative Anchia.

10 Q. (By Representative Anchia) Mr. Mulhausen, thank
11 you for being here today. Was your study peer reviewed?

12 A. It actually didn't go through a journal process.
13 My study was basically a -- a response to a study that was
14 funded by the federal government that on its face used
15 questionable methods, and I just go through in my study
16 and just show that --

17 Q. Is that the Eagleton study?

18 A. The Eagleton study. I just to show that
19 basically they have a lot of coding errors, mistakes in
20 classification of laws. If you account for those errors,
21 the effect that they found disappears.

22 Q. And the Eagleton study did conclude -- I think
23 you say this in your -- include this in your written
24 testimony. This is Professor Timothy Versalotti found
25 that more stringent voter identification requirements



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311

1 appear to reduce voter turnout. That was the conclusion?

2 A. That was the conclusion, but when you corrected
3 the further mistakes, those findings disappear.

4 Q. And are you aware -- are you familiar with the
5 Erickson and Midnight study entitled Modeling Programs in
6 Voter ID: Voter Turnout Debate?

7 A. I actually haven't read that study.

8 Q. Okay. Well, they conclude that we should be wary
9 of claims on both sides of the controversy because of the
10 limitations of the modeling that are used, and I think
11 Mr. Leavitt alluded to that from the Brennan Center.

12 Did you hear his testimony?

13 A. Yes.

14 Q. And would you agree with that, that they are
15 inherent limitations to proving -- using turnout year over
16 either and in -- turnout from before the implementation of
17 voter ID and after, that it would be very difficult to
18 prove one situation or another?

19 A. Well, I think that it wouldn't be too difficult
20 to prove. I think the Mikoff study is probably, in my
21 opinion, the best study out there because they controlled
22 for the political motivation of the voter.

23 Q. How did they do that?

24 A. Basically they have a survey of voters and the
25 voters are asked how strongly you are engaged into the



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1 total process -- not very likely, moderately, and very.

2 Q. Was it statistically significant?

3 A. Yes. And once you control for that, you'll find
4 that some of the previous -- my own study doesn't control
5 for the motivation of the voter simply because it's based
6 on current population survey which doesn't ask the voter
7 or the respondent what their motivations are.

8 Q. So, you did you calculate -- were your results
9 statistically significant or were your -- was your survey
10 statistically significant?

11 A. Some of my results are statistically significant.

12 Q. What about others? Were all of them
13 statistically significant?

14 A. Well, it depends -- found had statistically
15 significant finding, but after you correct it for the
16 misclassification of Arizona, the results disappear. And
17 so, it was no longer statistically significant. So, you
18 can get statistically significant with a bad model.

19 Q. Are you aware of any evidence at all that voters
20 are more likely to vote because of new voter ID laws?

21 A. I am not aware of any evidence that consistently
22 points in that direction. What I would say is --

23 Q. Can you cite any work that points in that
24 direction?

25 A. Well, the Miller study of Indiana, Jeffrey



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1 Miller, he indicates that --

2 Q. Was that peer reviewed?

3 A. I do not know.

4 Q. Okay. Have you studied any instances of -- let's
5 back up.

6 Have you read this bill, the Frazier bill?

7 A. I'm not expert in the bill.

8 Q. Have you read the bill analysis, the summary to
9 the bill?

10 A. No. I've read the summary to the bill.

11 Q. But you haven't read the bill itself? And you
12 wouldn't be able to tell us, based on your Heritage Center
13 report, how it might impact voters in Texas?

14 A. What I would suggest is probably the overwhelming
15 majority of Texans already have appropriate form of
16 identification.

17 Q. What percentage?

18 A. Don't know. I would be very interested -- wish
19 somebody would actually find that out because I would bet
20 it's a very high percentage. And second, I would say that
21 people who are engaged in the voting process are going to
22 go out and get photo ID if necessary.

23 Q. Would it be relevant to your conclusion that
24 about 810,000 Texans who are eligible and registered
25 voters when they registered to vote did not furnish either



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1 the last four digits of their Social Security number or a
2 Texas driver's license?

3 A. Well, I think that under this court of law
4 there's already enough outs where you can actually vote
5 without presenting a photo ID.

6 Q. And how many -- and what are those outs?

7 A. I believe if you have two letters from the
8 government, official letters, that they can be used and
9 there's some other -- I don't have the whole list.

10 REPRESENTATIVE ANCHIA: Okay. Okay. Thank
11 you for your time.

12 Q. (By Chairman Smith) Just for the record, I want
13 to state I have been given a copy and it looks like it is
14 the Eagleton Institute of Politics at the State University
15 of New Jersey and the Morenz College of Law at the Ohio
16 State University that has issued this report, and I just
17 want to indicate for the record that their finding on
18 Page 28 is that "Voters and states that required photo
19 identification were 2.7 percent less likely to vote than
20 voters in states where individuals had to give their
21 names."

22 So, that you would agree would indicate to
23 me what they were doing when they made the comparison was
24 comparing -- I think Vermont is like that, where you just
25 walk in, you give them the name, if you're on voter



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1 registration, you vote -- to Indiana, which has a
2 requirement that you provide a photo ID and if you do not,
3 the only way your vote counts is if a justice approves it
4 within 10 days.

5 A. They looked at all 50 states. They classified
6 each state by their voting laws, and they found that --
7 again, I replicate the findings in their study. They
8 found that, for instance, after you corrected for
9 Arizona -- in 2004, Arizona had a ballot to require a
10 photo ID. And so, what they do is before the law was
11 actually passed and after you correct for that mistake,
12 the findings disappear so that --

13 Q. I understand that you don't agree with the
14 conclusion. I'm just trying to determine what this study,
15 which as far as I know is the only study that I have seen
16 that indicates that there's an adverse effect on turnout.
17 So, I'm trying to determine for the record what their
18 assertion or allegation is.

19 In reading this sentence, it sounds like to
20 me they are comparing states that require photo
21 identification to states where individuals had to give
22 their names. So, what they are doing is comparing an
23 Indiana-like law to a Vermont-like law. Is that correct?

24 A. Yes.

25 Q. And their conclusion was that even where you



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316

1 compare the most extreme possibilities from one end of the
2 spectrum to the other, there's a 2.7 percent reduction in
3 turnout. Right?

4 A. Yes.

5 Q. Other studies have indicated no effect?

6 A. Yes.

7 Q. But even if this were accepted as truth, it would
8 not be any kind of an indication of the effect of a change
9 in Texas where we do not change the photo identification
10 requirement that is in place already. It's not a
11 requirement. It's an option -- and we simply change the
12 non-photo requirement to require if you use that form of
13 identification that you back your voter registration up
14 with some sort of additional non-photo documentation.
15 There's nothing in place that would suggest or infer that
16 that in any way is going to suppress any kind of turnout.

17 Do you agree with that?

18 A. I agree with you totally.

19 CHAIRMAN SMITH: Any other questions? Dr.
20 Allen?

21 Q. (By Alma Allen) In your study you use the term
22 "state your name." Do you simply mean walk up and say,
23 "I'm Alma Allen," and they said okay?

24 A. Yes. In some states -- I voted in Maryland where
25 I said, My name is David Mulhausen," and they look in the



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317

1 roll and they find a David Mulhausen and say, "Okay. You
2 can vote."

3 CHAIRMAN SMITH: That's the way Texas was
4 until the late Nineties.

5 ALMA ALLEN: Great. The late Nineties?
6 Okay. 1990?

7 CHAIRMAN SMITH: No, late Nineties.

8 ALMA ALLEN: I didn't know that.

9 CHAIRMAN SMITH: You may not have ever
10 tried to do that.

11 ALMA ALLEN: No, because I always had
12 something else. Since 1964, I couldn't walk up. Until
13 then, I had to do something.

14 CHAIRMAN SMITH: I don't know how far back
15 that goes, but my understanding is the requirement to
16 provide identification did not come into play until the
17 1990s.

18 Any other members of the committee that
19 wish to ask some questions before I give Representative
20 Raymond the opportunity to?

21 Q. (By Representative Raymond) First, I just want to
22 ask you, Mr. Mulhausen, looking at your testimony, at the
23 top it's a letterhead from the Heritage Foundation but
24 then, you know, the second sentence says, "The views I
25 express in this testimony are my own and should not be



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318

1 construed as representing any official position of the
2 Heritage Foundation."

3 So, is it the Heritage Foundation's
4 position or not?

5 A. It's my position, and basically it's standard
6 practice for Heritage Foundation where they are
7 testifying --

8 Q. Is this the position of the Heritage Foundation
9 or not?

10 A. This is the position of David Mulhausen.

11 Q. Why would you use this -- it's a little
12 misleading. Would you agree it's a little misleading?

13 A. Well, this is actually how it's done.

14 Q. I'm really -- I want to ask because this is a
15 well-known foundation. And so, you know, is this the
16 position of the foundation or not?

17 A. It is the position of David Mulhausen.

18 Q. Okay.

19 A. An employee of the Heritage Foundation.

20 Q. But not the foundation?

21 A. Not necessarily the foundation.

22 Q. You don't believe that that's misleading?

23 A. No. I'm here --

24 Q. Well, I'm sorry, but I think it is. But
25 nonetheless, it's not the position of the Heritage



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1 Foundation. You're based in D.C.?

2 A. Yes, we are.

3 Q. Flew down there?

4 A. Yes, I did.

5 Q. Who pays for your expenses to come down here?

6 A. It depends. Sometimes the Heritage Foundation,
7 sometimes not. In this case, somebody else did.

8 Q. You're not telling us who?

9 A. Safe Texas.

10 Q. Say again?

11 A. Safe Texas.

12 Q. Safe Texas?

13 A. Safe Texas.

14 Q. I'm sorry. Who is Safe Texas?

15 A. It's an organization concerned about photo ID
16 issues in the state.

17 Q. Where are they based?

18 A. I think you should ask Safe Texas.

19 Q. Well, I'm asking you because that's who you're
20 representing.

21 A. I'm representing myself. I think you're making a
22 big deal out of nothing here.

23 Q. I'm sure you're right, you think we're making a
24 big deal out of nothing. This is a big deal for us
25 because what we feel -- a lot of us feel, and I guess



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320

1 we're -- you know, you're all right or we're all wrong,
2 that every minority who is involved in trying to make sure
3 the minorities have voting rights feel like this is an
4 effort to suppress voting rights. So, it is a big deal to
5 us. I'll move on.

6 The -- is it your feeling -- you came all
7 the way down here, but is it your feeling that the voting
8 system in Texas right now is not good or it needs to be
9 made better?

10 A. Well, I think in general -- I think most states
11 should adopt --

12 Q. I'm talking about Texas.

13 A. I think most states, including Texas, should
14 adopt --

15 Q. Do you feel that our election system right now is
16 being corrupted or not efficient or it allows people to
17 cheat or --

18 A. I think there are reasonable steps to help ensure
19 the integrity of the process that could be adopted.

20 Q. Is it your feeling that there is something wrong
21 with Texas now or not?

22 A. I think the voting system could be improved in
23 Texas.

24 Q. So, you think that there are problems with the
25 voting system in Texas?



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321

1 A. I think a lot of states have problems.

2 Q. I'm trying to ask you a reasonable question.

3 A. Sure. I'm trying to answer.

4 Q. Well -- so, do you think that Texas has problems?

5 A. I think Texas can improve its electoral process.

6 There are some problems in Texas.

7 Q. And you're aware that we've had a Republican
8 governor in this state since 1994. Right?

9 A. Right.

10 Q. So, from '94 to now we've had a Republican
11 governor, a Republican state senator. From 2002 until
12 today, the majority of the state House is Republicans.

13 So, you think we have problems in our
14 voting system and we're electing all these Republicans, is
15 it your view that if we pass this it's going to be better
16 and that --

17 A. Well, I'm -- to be honest with you, I don't
18 really care who you elect as long as you elect somebody
19 and a system that has -- that has held to certain
20 standards to make sure that it's a valid election.

21 Q. You have a bunch of examples of where people in
22 Texas have tried to impersonate voters?

23 A. I think there's some other people here who can
24 testify to that better who are coming after me.

25 Q. Well, you came here, so I was trying to ascertain



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322

1 what got you on the airplane.

2 A. What got me on an airplane is that I've studied
3 the effect of voter ID laws, and that's where my expertise
4 lies. There appears to be no effect from photo ID laws on
5 voter turnout.

6 Q. You mentioned here the Rasmussen report on Page 2
7 of your paper. Right?

8 A. Uh-huh.

9 Q. And it says that, quote, on here 57 percent of
10 Americans favor ID laws. 9 percent of white, 15 percent
11 of African Americans, and you don't mention Hispanics, but
12 is it your contention that there would be that great
13 disparity from 9 to 58 percent in terms of that there are
14 a lot more Anglos that support it as opposed to a lot more
15 African-Americans who obviously don't?

16 A. Well, I mean, the odds --

17 Q. Does it matter to you or not?

18 A. Well, what matters to me is that it looks like
19 the majority of Americans in this poll support the law.
20 I'm not somebody who obsesses about racial differences or
21 ethnicity among people. I don't spend my whole time
22 obsessed with that. You are who you are, and I accept you
23 for that.

24 Q. So, you wouldn't take notice of the fact that a
25 lot more African-Americans are concerned about this than



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1 Anglo Americans?

2 A. Well, I think the fact -- I think certain
3 segments of the population could be better educated on the
4 effect of these laws.

5 Q. Really?

6 A. Yeah.

7 Q. So, you think African-Americans aren't educated
8 enough?

9 A. Well, I read some literature of some
10 organizations and -- comparing the -- required to show
11 identification supports some form of identification to a
12 poll tax and I think that's a very unfair comparison. It
13 doesn't hold much merit.

14 Q. Really?

15 A. Yes.

16 Q. So, you've lived a life amongst the folks who --
17 and you can't imagine folks that would actually think it
18 would be cumbersome or costly or hard to go get a voter
19 ID?

20 A. Actually, I think Justice Stephens wrote is that
21 once every six years to go get a free photo ID.

22 Q. Justice Stephens, is he African-American?

23 A. No, but --

24 Q. Is he Hispanic?

25 A. No, he's not.



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324

1 Q. Answer my question, then you can -- is he
2 African-American or Hispanic? Yes or no?

3 A. He looks to be white American.

4 Q. And how old is he, more or less?

5 A. He's quite elderly.

6 Q. And he's lived in Washington, D.C. how long?

7 A. Since -- probably a good portion of his life.

8 Q. Right, a good portion of his life. And how much
9 experience do you think he has had in his life -- in the
10 last 50 years of his life of understanding our community
11 and what would be too hard or too easy? (Inaudible) who
12 didn't have a photo ID, it would be easy for them to go
13 get it. From his point of view and his vantage point -- I
14 don't care if he's liberal. He's a white, rich guy
15 sitting up on the Supreme Court for the last 45 years,
16 however many years it's been, and he has no clue about
17 what's hard or what's easy for folks in the communities we
18 represent.

19 A. I can't delve into his mind, but my perspective
20 is that I consider all human beings to have enough
21 capacity to not just -- if there's a law passed that says
22 you need to have certain forms of identification, I don't
23 think for some reason that minorities are going to be
24 unable to fill that obligation. I just --

25 (Simultaneous conversation).



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325

1 A. I think it's a disrespectful sort of view of
2 minorities to think that they are incapable of --

3 Q. I'm saying would it be more difficult? Can you
4 fathom how that might be more difficult?

5 A. How much more difficult? How much more difficult
6 it is to go and -- go to Department of Public Safety and
7 get a free voter ID card?

8 Q. Right, you can't. Have you represented five
9 rural towns -- 25 rural towns in south Texas like I did?

10 A. No.

11 Q. You grew up in a town of 1500 with 99 percent
12 Hispanics like I did?

13 A. No.

14 Q. Then you can't -- you can't understand.

15 CHAIRMAN SMITH: Any other questions?

16 Q. (By Speaker) You mentioned something just a
17 second ago about fair and reasonable steps as it relates
18 to the photo ID voter integrity.

19 I don't remember exactly how you phrased
20 it, but do you remember making that comment?

21 A. I was supporting Justice Stephens.

22 Q. About the fair and reasonable steps. Can you
23 tell me that the organization or the individual -- because
24 you said you treat everybody equally and that you believe
25 that everybody is the same and we're all created equal.



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326

1 Can you come up (inaudible) idea on how
2 people that don't have ID and they go vote on election day
3 at 6:55 p.m. and they don't have any ID, how they are
4 likely to vote and be protected?

5 A. Well, first of all, any voter ID law should not
6 take effect immediately. There must be some period where
7 the voting public can be educated. We must assume that
8 all voters will be able to easily understand their
9 obligations and take the time over the course of a year or
10 two -- or in this case, this bill, four years -- to go get
11 the appropriate identification.

12 Now, if you didn't have appropriate ID,
13 there's still alternative forms of documentation that can
14 be brought. So, I think that any reasonable person should
15 be able to -- given enough time be able to get the
16 appropriate documentation together because at some point
17 you have to go out and register to vote. At some point
18 you have to go find out where you're supposed to go vote,
19 and then you've got to go vote.

20 Q. There's a large stigma of the population that's
21 already been noted by several people that may not have
22 access to that or may not carry that on them or because of
23 various, you know, ways they get around, transportation,
24 you know, may not have that readily available and they may
25 go and vote and -- which is not unusual in the district



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327

1 that I represent. And, you know, by your answer you're
2 telling me that, you know, that you haven't gave as much
3 thought and consideration to reasonable measures that can
4 be taken that those people vote and that's what's missing
5 here today and everybody for this deal, that they are
6 looking at one side of the equation but they could care
7 less. Everyone else is invisible. Everyone else is an
8 invisible man and it doesn't matter what happens with
9 those folks.

10 A. Appears that you're asking -- you have a
11 hypothetical person who decides at 10 minutes before the
12 polls are going to close that, "Oh, I'm going to go vote."
13 I mean, you would presume that the person would
14 have registered in advance to vote.

15 Are you assuming the person did or didn't
16 register to vote in the first place?

17 Q. (By Alma Allen) -- that you need to go get a
18 driver's license. How much does a driver's license cost?

19 A. I never said you had to get a driver's license.

20 Q. ID.

21 A. One of the things is this bill would provide a
22 free ID and, if you don't get that free ID, there's other
23 materials that you can -- you can get to get your access
24 to vote. So, I don't understand -- there's so many outs
25 in this bill as it's currently written that it's really



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328

1 not even a photo ID law.

2 Q. Okay. What about senior citizens who live in a
3 house with -- they don't drive, but they live in a house
4 with their children so the light bill doesn't come to them
5 in their name? I don't know we would get an ID for them.

6 A. They may have a Social Security card. They may
7 have other documentation that they can use. I know that
8 the list of acceptable documents is not a brief list.

9 Q. Okay. So, if we were looking at the number of
10 people who needed to at this moment -- the law came into
11 effect at this moment, then the number of people who would
12 have to do something extra to be in a position to vote,
13 then usually I ask in meetings, "Do you have two forms of
14 ID right now and you can vote," and I find very few people
15 able to do that. But the research shows that 25 percent
16 of blacks don't have the proper ID, 25 percent right this
17 minute, to go and vote. Of course I'm supposing if you
18 put another hurdle out there, we would probably jump it,
19 too. It would be a little hard. We always have to jump
20 it. 16 percent of the Hispanics don't have an ID compared
21 to 8 percent of whites.

22 It's going to impact everybody. So -- and
23 18 percent of senior citizens don't have an ID right now.
24 So, any money you would spend -- think about it.

25 A. I think the Supreme Court actually sort of took



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329

1 that up and basically said that there are reasonable
2 expectations for a voter to exercise some responsibility
3 in ensuring a fair -- an election that has integrity
4 behind it is not a poll tax. I mean, it's -- I think
5 that's rhetoric that's stopped moving the debate forward.

6 Q. Are you talking about the 1964 --

7 A. No, I'm talking about the recent Supreme Court's
8 decision on photo ID laws.

9 Q. Oh, okay. I didn't think you were talking about
10 the poll tax.

11 A. My understanding, poll taxes are illegal.

12 Q. Not in the State of Texas. We haven't done that
13 yet. Every state has to ratify the Constitution of -- the
14 24th Amendment of the Constitution of the United States
15 which abolished poll tax. The state of Texas has not done
16 that yet. Neither has Mississippi, Florida, Alabama, and
17 a couple of other states. So, we're kind of behind the
18 eight ball already.

19 A. So, there's a poll tax in Texas right now?

20 Q. Officially on the books. It may come up if you
21 wanted to use it. If it's on the books, you can use it.

22 A. You made your point.

23 ALMA ALLEN: Thank you.

24 CHAIRMAN SMITH: Any other questions,
25 members? Mr. Mulhausen, I don't hear any. Thank you very



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330

1 much.

2 MR. MULHAUSEN: Thank you.

3 CHAIRMAN SMITH: Thanks for coming down.

4 MR. MULHAUSEN: Appreciate it.

5 CHAIRMAN SMITH: At this time, the chair
6 will call Jenigh Garrett, representing the NAACP Legal
7 Defense and Educational Fund to testify against Senate
8 Bill 362.

9 SPEAKER: Mr. Chairman, as she comes up, I
10 though you might make a clarification on the witness
11 affirmation form for the preceding witness, but he said
12 that he was not representing the Heritage Foundation that,
13 in fact, a company called Safe Texas was paying his way
14 here and that's who he's representing.

15 Are you familiar with Safe Texas?

16 CHAIRMAN SMITH: Yeah. No, I don't think
17 he said he's representing Safe Texas. It's certainly not
18 my understanding he's representing Safe Texas.

19 SPEAKER: They paid him to come here.

20 CHAIRMAN SMITH: Transportation.

21 SPEAKER: Oh, that doesn't count?

22 CHAIRMAN SMITH: I don't think that means
23 he's representing them.

24 SPEAKER: Okay.

25 CHAIRMAN SMITH: All right. How are you?



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331

1 Why don't you go ahead, Ms. Garrett, and state your name
2 and who you represent on the record?

3 JENIGH GARRETT: Jenigh Garrett. I'm
4 assistant counsel of the NAACP Legal Defense and
5 Educational Fund. It's my pleasure to be here. I thought
6 it was this afternoon, but that's fine.

7 (Inaudible) has been a pioneer in the
8 efforts to secure minority voter rights in the United
9 States, particularly those of African-Americans over many
10 decades. Part of the efforts are involved in nearly all
11 of the precedents in litigation. Voting rights, including
12 cases abolishing white primaries, creating and/or
13 defending the first majority African-American
14 Congressional and state legislative (inaudible) in several
15 states and eliminating various black voter participation
16 in office holdings. (Inaudible) has also worked across
17 the country and in Texas to educate voters, election
18 officials, and poll workers about the importance of
19 developing state election processes that empower voters
20 and ensure that all eligible voters have an opportunity to
21 exercise their vote through our voter education, Prepare to
22 Vote, and our work in the National Election Protection
23 Program.

24 I'm pleased to offer testimony today
25 regarding SB 362, the legislative (inaudible) current



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1 identification procedures by requiring certain forms of
2 identification on election day, including photo
3 identification.

4 My testimony today will address how photo
5 identification laws work against the goals of achieving a
6 more inclusive democracy. In our experience, photo
7 identification laws restrict access to the political
8 process and discourage political participation.

9 Just to begin -- our democracy requires
10 electoral processes that encourage the participation of
11 all citizens and I think it's important that this body, as
12 it was doing today, carefully evaluate the impact that a
13 voting law will have on the entire electorate and the
14 impact that the law will have on minority voters in
15 particular.

16 Unfortunately, LDM has determined that
17 photo identification requirements undermine the 14th and
18 15th Amendments to the Constitution and the Voting Rights
19 Act. Photo identification requirements place onerous
20 burdens on racial minorities because they are marginalized
21 voters.

22 While the adoption of a photo
23 identification requirement might pose no significant
24 threat to the most mobile and affluent among the Texas
25 citizens, in the state the most marginalized population



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333

1 remain at the forefront of the legislature's analysis, and
2 I take two cases to really point this out that I found.

3 One was in a different context. Justice
4 Marshall on the Supreme Court discussing in a different
5 context about saving money, (inaudible) that a weekly
6 savings of less than \$2 -- \$2 even a burden. But no one
7 who has had close contact with the poor people can fail to
8 understand how close to the margin of survival many of
9 them are.

10 A study found, for example, may destroy
11 whatever savings that they have accumulated and by
12 eliminating that sense of security may destroy the sense
13 to save in the future. A pack or two of cigarettes may be
14 for them not able to purchase but a luxury indulged in
15 only rarely. The poor almost never go to see a movie,
16 which the majority seems to believe is almost weekly
17 activity. They have more important things to do with what
18 little money they have, like attempting to provide some
19 comfort for a gravely ill child -- and the quote goes on.
20 (Inaudible) the Missouri Supreme Court took that principle
21 and looked at it in the context of photo ID (inaudible)
22 who move beneath the poverty line, the \$15 they must pay
23 in order to obtain a birth certificate and vote, that's
24 \$15 that they must subtract from the meager ability to
25 feed, shelter and clothe their family.



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1 So, you have to look at that economic
2 burden in the context of race. And in 2005 Hurricane
3 Katrina in its aftermath demonstrated that rising poverty
4 can distort reality from many of our nation's most
5 marginalized citizens. Even there in the context of life
6 and death, (inaudible) were without cars. They were
7 without ATM cards. Many did not have a driver's license.
8 All of those instances (inaudible) remain part of our
9 democracy.

10 My testimony -- my written testimony goes
11 on to talk about depressed voter participation. I would
12 like to go on and just talk about our on-the-ground
13 observations since 2000 and in 2008 and particularly in
14 Indiana.

15 Most recently we observed the application
16 of the Indiana photo identification requirement during the
17 2008 primary and general election. LDF attorneys were on
18 the ground to monitor the election, to determine to the
19 extent to which African-Americans in Gary, Indianapolis
20 and surrounding communities in Lake and Marion Counties
21 were adversely impacted by the identification requirement.
22 LDF noted -- encountered difficulty casting ballots as a
23 result of Indiana's photo identification law. LDF
24 attorneys were informed by poll workers that voters who
25 did not submit qualifying identification were not always



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335

1 informed of their right to cast a provisional ballot.

2 Instead, some of those voters were turned away.

3 Our observations demonstrated that
4 provisional ballots, although designed to protect voters
5 in such situations did not provide an adequate safeguard.
6 In light of the reality that provisional ballots are not
7 always immediately available and even if poll workers
8 uniformly offer provisional ballots to voters who lack
9 valid government-issued identification, the extra step
10 required to count the ballot is a trip to the county seat
11 within 10 days of the election proved excessively
12 burdensome for many of the poor voters. For example, if a
13 voter without photo ID cast a provisional ballot in Gary,
14 they would have to travel to the county seat in Crown
15 Point in order to make sure that their ballot counted.
16 And when we went there, we learned that often these
17 ballots went uncounted.

18 I know there were questions about how many
19 were counted. It's my understanding that at least in Lake
20 County they are segregated so they know which ones are
21 photo ID ballots and which ones are other types of
22 provisional ballots. I'm not quite sure why the Secretary
23 of State wasn't able to get all that information and then
24 comply with the requirements to report it.

25 So, what this shows is that the provisional



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336

1 ballot option does not guarantee the rights of otherwise
2 eligible voters who are simply unable to satisfy the photo
3 identification requirement at the outset. And although
4 the Texas proposal does not require that additional trip
5 in order to make the ballot count, the exceptionally high
6 rate of rejected provisional ballots in Texas illustrates
7 that provisional ballots will not neutralize the burden of
8 photo identification requirements.

9 Based on our experiences, we really think
10 it's important for the legislature to really consider some
11 specific things about how any type of photo identification
12 law will impact voters along racial lines. We have a few
13 examples of data that's very informative in that regard --
14 the number of facilities, the distance between facilities
15 where individuals can obtain free identification for
16 voting purposes in minority communities as compared to
17 non-minority communities, the number of minority voters
18 without acceptable photo identification, the number of
19 minority voters with driver's licenses as compared to the
20 number without, the number of minority voters who are
21 transient and/or homeless and are less likely to have
22 photo identification or photo identification that matches
23 their voter registration address, the impact of the
24 requirement that voters present two forms of non-photo
25 identification on minority student voters at Texas



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337

1 universities, the impact of the requirement that voters
2 bring two forms of non-photo identification on the elderly
3 citizens in nursing homes, and the current levels of
4 rejected provisional ballots and the grounds for the
5 rejection in minority precincts in particular.

6 Voting is a fundamental right because it is
7 the basis of all other rights. It appears that a number
8 of states, including Texas, are now considering moving to
9 adopt laws that would effectively restrict or deny access
10 to the ballot box, and I would just like to say that the
11 course -- explicitly left open the possibility of future
12 challenges that demonstrate how identification laws burden
13 the rights of voters. Accordingly, Texas call for it as a
14 blanket endorsement of the photo identification.

15 Thank you. I'm open for any questions that
16 you may have.

17 Q. (By Representative Bonnen) Are they issued
18 most of the photo identification cards at the
19 universities?

20 A. Which universities are you talking about? In
21 Texas?

22 Q. In Texas. Do you know the extent to which that
23 occurs at state universities? If I go to University of
24 Texas, do I get a photo identification?

25 A. I do not know those specifics.



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338

1 Q. Prairieview University had a gentleman earlier
2 testifying about Prairieview University or any other
3 predominantly minority institutions, is there anything to
4 prevent -- to the extent that there is any college who
5 currently does not already have a photo identification for
6 their students, do you know of anything that would prevent
7 them from providing that?

8 A. Not to my knowledge, but I would like to talk
9 about our experience on the ground in Indiana. A
10 particular called us during the early voting period, an
11 African-American student attending a state university and
12 when she appeared to early vote, she was presenting her
13 state university ID and her driver's license and she was
14 there (inaudible), but it was her second, and she was told
15 that that was not adequate in order to vote, that she
16 would have to go and get a state ID from the Indiana DMV
17 down in Indiana and she was told by a white voter from New
18 Hampshire that all she had to do -- because the white lady
19 was explaining that she went down and she picked up her ID
20 by just turning in her New Hampshire ID. And went she
21 went down to the DMV, she was told that she would have --
22 she could get a driver's license, but she would have to
23 disqualify her Minnesota license, re-take and pass a
24 written driver's license test, provide proof of living on
25 campus, bring her original birth certificate and Social



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339

1 Security card and surrender her Minnesota license.

2 She wrote the instructions down and she
3 called her mother and asked her mother to help her get her
4 original copy of her birth certificate. They couldn't
5 FedEx it there in enough time because the early voting
6 closed on the weekend, couldn't get the FedEx delivery in
7 enough time for her to get down to the DMV to get the ID
8 that she needed so that she could actually cast her vote
9 on that day. The reason why the state ID wasn't counted
10 was because it didn't have an expiration date on it
11 because the state made a decision not to do that. So,
12 there's still students definitely impacted (inaudible).

13 Q. And I can't -- I can't -- I don't know the list
14 of documents that are acceptable in Indiana as
15 photographic documents -- I probably have some evidence
16 somewhere back here in the file -- but in the Senate bill
17 it does indicate that any valid identification card that
18 contains the person's photograph and is issued by an
19 agency, institution, or political subdivision of Texas is
20 certainly a valid ID. Along with, of course, any such
21 document issued by an agency that's an extension of
22 federal government.

23 So, I guess that raises a question with
24 regard to private universities, and I don't know if that's
25 otherwise addressed in here or not. But certainly with



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340

1 regard to public universities, it seems clear that to the
2 extent -- and I'm getting head shakes from the audience
3 that would seem to indicate that at least as I asked the
4 University of Texas, that is already done and you don't
5 know if there is any university that does not already
6 provide a photo identification for their students?

7 A. In the State of Texas?

8 Q. You don't know?

9 A. I do not know about Texas specifically, no. I do
10 believe, however, there's someone who could testify.

11 Q. I think that's -- I think that's a legitimate
12 point to be made to the extent that the students are --
13 you know, I suppose that's already an issue with regard to
14 the identification that's already required, but, you know,
15 if there is a significant problem I would really want to
16 know specifics in terms of the absence of photo
17 identification documents that are already available in
18 those universities rather than simply presuming the
19 problem. I would like to see some indication that it
20 can't be corrected simply by the university issuing a
21 photo identification to their students.

22 A. Well, I think there are additional issues in the
23 Senate bill that should give you pause with that
24 consideration in mind. Particularly, it seems as if the
25 specifics as far as whether it is simply presentation of



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341

1 the ID or if it's looking at the ID or the signature or
2 looking at the ID and the address and expiration date, et
3 cetera, is not addressed. Instead, the Secretary of State
4 will give training materials (inaudible) and so that the
5 election official will look at the -- have the discretion
6 to look at the non-photo identification and then make a
7 determination.

8 That leads to the question of the election
9 official who will be presenting the two forms of non-photo
10 identification. And again, some things may be resolved in
11 training materials. However, that stuff is not in the
12 bill right now and these are the types of things that we
13 see actually misapplied, particularly in minority
14 precincts. So, if you go to the polling place and when
15 they even present, let's say, in Indiana a photo ID
16 instead of -- they take the ID and they use it for a lot
17 of different things that they should not use it for and
18 they can't vote and unfortunately it's been used as a
19 mechanism to actually stop people from voting.

20 Q. Well, to the extent that that has occurred, I
21 presume the question is to what extent does this
22 legislation advance the likelihood of that occurring
23 because, again, this legislation doesn't change existing
24 law with regard to photo identification. It simply
25 changes the existing law with regard to non-photo



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342

1 identification. I can only imagine what things might
2 happen at the polls that you are concerned about, but I
3 presume that to the extent that that is possible it's
4 currently every bit as possible as it would be after this
5 legislation was passed.

6 Do you have any reason to doubt that?

7 A. Well, I have -- I guess, respectfully, I do
8 disagree a little bit about what the law is actually doing
9 and I could be corrected, definitely.

10 Q. Well, do you understand that current law gives
11 you the option of using a photo ID?

12 A. It's my understanding that what is required under
13 the current law is your voter's registration certificate.

14 Q. No. You don't have to have a voter registration
15 certificate. I never have a voter registration
16 certificate when I vote.

17 A. Then I was going to go on to say and that if you
18 do not have a voter registration certificate, you can
19 provide a photo ID. I think this law is different because
20 it creates two different classes of voters. It creates
21 two different classes of voters. It's saying, "Okay.
22 You're the photo ID voter. Just go through." And it's
23 saying, "Oh, you're the non-photo ID voter." Now I'm
24 going to take your ID, and I'm going to -- we don't know.
25 Who knows? I'm going to make a judgment and decision



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343

1 based on what you're giving me, and I'm going to say
2 whether you can cast that vote. I think that is my main
3 concern with this particular bill that is before us.

4 Q. The only change is that you go through that
5 process with regard to two documents rather than one.

6 A. It's not my understanding -- and again, I may be
7 corrected, but it's not my understanding that when you're
8 presenting your voter registration card it's subject to
9 some type of discretionary determination by the election
10 official.

11 SPEAKER: Mr. Chairman, I think what she's
12 referring to, if I can shed some light on it, I think
13 you're missing the difference between current law which is
14 a presentment standard and the Frazier bill, which is an
15 identify standard. And that's why it really does change
16 what current law is because the documents -- the language
17 in the Frazier bill says if your identity can be verified
18 from the proof presented, which is -- and if -- I'm just
19 offering this up for clarification purposes -- I think in
20 certainly my opinion potentially the opinion of the
21 witness, that's very subjective.

22 Q. (By Chairman Smith) So, if the standard coming
23 out of the House was a presentment standard rather than an
24 identity standard, then that would comfort you? In other
25 words, an objective black and white test, either have the



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344

1 document or you don't have it. You don't have part-time
2 workers making decisions on whether or not you look enough
3 like your picture to cast a regular ballot.

4 Does that comfort you as described?

5 A. I'm pausing on the word "comfort."

6 Q. You don't like using it, do you?

7 A. No.

8 CHAIRMAN SMITH: Okay. I won't make you.
9 Any other questions, members?

10 SPEAKER: Yes, sir. Thank you, Chairman.

11 Q. (By Speaker) Ms. Smith -- I am so sorry. I
12 imagine one of the things that gives you concern -- I
13 know. I know. I know -- let me ask it this way.

14 Does it give you concern that there's
15 language in the bill that says your identity must be
16 verified by the poll worker from the proof presented?

17 Does that give you concern?

18 A. Yes.

19 Q. And does it give you concern because there could
20 be address match problems for denying persons? For
21 example, on your photo ID it says you lived in your old
22 apartment, but you are on the rolls at your new place.

23 Do you think that it gives people wiggle
24 room to deny somebody for that reason?

25 A. I would agree with that. I have a given concern



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345

1 because different people are treated differently under
2 photo identification law. Everyone is not treated equally
3 under photo identification law. And whether it's the
4 address, whether it's the expiration date, whether it's
5 because as reported to us in Indiana a white voter enters
6 the polling place and they say, "Go ahead." (Inaudible)
7 this is also reported, and the black voter and that the
8 poll worker reported it because she observed it.

9 Q. Does it give you also concern that we had someone
10 testify about systematic disenfranchisement of African
11 Americans that continues presently in Waller County? Does
12 that add to your concern?

13 A. Not only -- yes, not only Waller County but that
14 discrimination persists throughout the State of Texas.
15 And I know it's uncomfortable, but it is true.

16 SPEAKER: Thank you.

17 Q. (By Chairman Smith) When you talk about not
18 having the right address or not having the right name, how
19 do I alleviate the concerns without eliminating
20 identification requirements of any kind?

21 A. I think that the real focus should be, one, on
22 making sure that the process is open to everyone equally
23 in that if there are concerns about the name and about the
24 address, about transients, homeless folks, then ID may not
25 be the right solution if this is really looking to not



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346

1 give additional mechanism for racial discrimination in
2 jurisdictions and elections that are racially charged.
3 This is the reality of voting, unfortunately for me, a
4 minority citizen. It may not be your experience
5 personally, but it is the experience of many minority
6 citizens.

7 Q. I'm going to kiddingly object as nonresponsive.
8 I don't -- if you're expressing a concern that the voters
9 might not have the right address or might not have the
10 right name -- and again, I have difficulty understanding
11 how that concern can be dramatically different in this
12 proposal than under current law, but how do I eliminate
13 that concern without eliminating identification
14 requirements of any kind?

15 A. For me, I would say that you can have an
16 affidavit requirement where a person can sign an affidavit
17 that they are who they say they are and vote a regular
18 ballot.

19 CHAIRMAN SMITH: All right. Any other
20 questions?

21 Q. (By Speaker) -- address the issue of the poor and
22 not wanting to place any -- anything on them that would
23 cause them to not be able to survive is what I'm thinking.
24 And I start thinking about the poorest among us who
25 would -- quite a few people without a bank account.



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347

1 Right? They would -- most likely in Texas they would have
2 a Lone Star card. That's our safety net for the poor to
3 provide them a means to exist. I understand to get a Lone
4 Star card you have to prove your identity some way. I'm
5 not sure about the process, about how you do that, but
6 they do have to prove their identity to qualify for a Lone
7 Star card. And if you don't have a bank account, assuming
8 you get a check of some kind, either a government check or
9 a paycheck, in order to cash it don't you have to have
10 some kind of proof of ID in order to cash a check?

11 A. Well, based on practical experiences, there are
12 people who co-sign their checks. I don't quite know if
13 (inaudible) might not have ID and how they cash their
14 checks.

15 Q. So, they find someone can prove their identity
16 and they co-sign, is that what you're saying?

17 A. I'm not quite sure how it works place to place,
18 but I know that one process that may occur for the poor
19 for cashing a check is that they may sign their name and
20 then give it to someone else -- they have a bank account
21 or something -- and they sign their name under that first
22 name and then that person cashes the check.

23 Q. I've just been trying to figure out -- prove
24 their identity in some way, and I feel like if we managed
25 to come up with a bill that we could support and we



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348

1 provide free ID for people who don't have them, I think
2 we're going to be doing them a huge favor because they
3 will be able to move around in our society and do things
4 that perhaps they haven't had access to before. It's just
5 something that's so needed for every one of our citizens.

6 A. I can say that if, you know, the State of Texas
7 wanted to do a free ID, that's one thing. But to link it
8 to a fundamental right, (inaudible) sort of
9 considerations.

10 So, what it does is it says -- if I were to
11 agree with this idea that if everyone had ID it would help
12 but what it does is it says, "Well, if you don't have it,
13 now you can't exercise your fundamental right," and that's
14 the problem with the photo identification, it relates to
15 all other aspects of life or saying, "Well, DPS offices
16 and they can, you know, get free ID." But the DPS
17 offices, their locations -- thinking about whether or not
18 people would have the access to exercise a fundamental
19 right and there was a reason why, you know, the Supreme
20 Court long ago said that voting is a fundamental right
21 such that if you can't exercise the right to vote then
22 you're not only taken out of participating in the jury
23 system and other aspects, but even in the laws that you're
24 governed under. So, it needs to be as inclusive as
25 possible.



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349

1 Q. I agree it should be inclusive. I just feel like
2 it's hard to get around the voter having some kind of
3 responsibility in this situation, taking on some
4 responsibility for proving your identity as far as, you
5 know, getting to the polls, for one thing. They managed
6 to do that. I just -- still it's not only a privilege,
7 but you do have some responsibility in exercising it.
8 Thanks.

9 JENIGH GARRETT: Thank, you ma'am. I do
10 agree that (inaudible).

11 CHAIRMAN SMITH: Representative Heflin,
12 real quick.

13 Q. (By Representative Heflin) Ms. Garrett, I have 16
14 counties and several of my counties, the DPS is only
15 open -- one of them for three hours a week and four of
16 them for, like, four hours a week and it's hit or miss
17 which day you get. So, it's a difficult situation.

18 Q. (By Chairman Smith) And let me just say, you
19 know, the reason why I'm not enchanted with the Indiana
20 law is because I agree with some of the concerns that
21 you're expressing.

22 What I have trouble with is applying those
23 concerns to the Senate bill, which does not require photo
24 identification. I'm not really interested in -- is, you
25 know, how many people you know that -- that -- we all



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350

1 agree -- I don't know that we've determined the precise
2 small percentage of people that do not have photo
3 identification, and I think it's just unimaginable that
4 anybody would argue -- and I don't think you have -- that
5 to provide that small group of people with a photo
6 identification would not -- aside from the election
7 process -- would be of some general benefit to their
8 ability to function in our society. But the -- you know,
9 what I'm interested in is what is the evidence about the
10 extent to which that small group of people who do not
11 already have photo identification also do not have in
12 addition to their voter registration card one of these
13 many documents, including Medicaid and Medicare cards,
14 envelopes from a governmental entity that are, you know,
15 et cetera. That's -- that's really what would describe
16 the burden, if any, that this legislation would place on
17 our constituents, which is dramatically different than the
18 burden that is -- that is placed on constituents that do
19 not have photo identification documents in the State of
20 Indiana. And I haven't heard a lot of evidence -- and
21 that's because I don't imagine that it exists -- that
22 there are a large number of Texans that do not have access
23 to one of these non-photo identification documents in
24 addition to their voter registration card among the very
25 tiny proportion of our constituents that do not have



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351

1 already photo identification documents.

2 So, you know, appreciate the fact that I am
3 very sensitive to the policy concerns that you're raising
4 about the fact that every voter, even ones who do not have
5 a photo identification, have a right, a Constitutional
6 right to vote that is not to be deprived. And even though
7 they are a minority, they are important and they have that
8 right and it's our job to make sure that there's nothing
9 that we do that places any unreasonable barrier in their
10 way, which is why I think the Senate adopted the version
11 of this legislation that it did. There's some things I
12 hope we're going to be able to do on the House side to
13 make it even more sensitive to those concerns. But, you
14 know, I just -- a lot of what we're hearing are legitimate
15 criticisms, in my opinion -- and some of my Republican
16 friends on the panel may not agree with me on that -- are
17 some legitimate criticisms of the law insofar as it
18 applies to Indiana, but it simply has no relationship or
19 bearing to what we're proposing here or what the Senate
20 has proposed here. Representative Anchia?

21 Q. (By Representative Anchia) Can I thank you again
22 for being here today? Are you aware of the case of Bessie
23 Jenkins Foster from Tarrant County?

24 A. No, sir.

25 Q. This was recently reported in the Fort Worth Star



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352

1 Telegram. She's a 98-year-old African-American woman who
2 has tried three times to get an ID and all three times
3 she's been turned away from DPS offices in Tarrant County.
4 She was asked for a birth certificate. She brought a copy
5 because the original was destroyed in a fire at the county
6 courthouse in Walker County. She brought her expired
7 license -- she doesn't drive anymore at 98 years old --
8 and she brought her former photo military identification,
9 Social Security card, and other documents and was turned
10 away on three separate occasions from the Department of
11 Public Safety in Tarrant County.

12 Two questions. Does this surprise you? Do
13 you believe this is an isolated case, and/or do you think
14 it happens regularly, especially for African-Americans?

15 A. First, I would say that it does not surprise me.
16 This is a difficult burden for me to overcome, but
17 particularly African-Americans, given -- especially older
18 African-Americans, given the circumstances surrounding
19 their birth, often at home without birth certificates, et
20 cetera. Also, even though African-Americans do have birth
21 certificates, they have typos on the spellings on their
22 birth certificates. Let's say in Illinois, there was a
23 Julia Murray who was looking for her birth certificate.
24 She was about 80 something years old now, and at the time
25 she was looking for her birth certificate she spelled her



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1 name M-U-R-R-A-Y her entire life but when she couldn't
2 find her birth certificate, finally the person who was
3 administrating the system there just happened to type it
4 in with a different spelling and found out it was
5 M-U-R-R-E-Y.

6 In addition to that, you have circumstances
7 where African-Americans were not issued birth
8 certificates. Again, like I said, because of the
9 hospitals and discrimination. One problem, I think, with
10 photo ID laws is that it starts five years ago but the
11 history of our country doesn't start that close to today.

12 CHAIRMAN SMITH: Members of the committee,
13 are you through?

14 SPEAKER: I just want to make a quick
15 comment on what she was just saying. My own family, if
16 you go past Betty Brown's neck of the woods and keep on
17 going down towards Marshall, Texas, where my dad's side of
18 the family is from before they migrated to Fort Worth, you
19 know, the people that are down there, well, I thought
20 you-all (inaudible) because of what you're saying. Half
21 of my relatives spell their name differently, and it's
22 just -- what you're saying. It's spelled differently
23 because a lot of those folks -- none of my folks from
24 Marshall were born in the hospital, I don't believe. They
25 were all born in the woods. So, that's the reality.



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354

1 That's what -- you know, I'm here to shed light on that
2 because I think it sort of gives -- some of the members of
3 the committee are like, "Well, why can't anybody do that?
4 I can do that. Why can't they go and do it, too?" It
5 gives them a glimpse into a different segment of society
6 that they probably haven't dealt with on a very personal
7 basis before.

8 Q. (By Alma Allen) I have my birth certificate right
9 here. Most people do not even recognize this as a birth
10 certificate, but my birth certificate was issued to Alma
11 Alabee Oliver. My maiden name. If I was to present that
12 today, I may or may not be able to vote. My name is
13 spelled wrong, and it doesn't have Allen on here anywhere.
14 That might be a problem. I'm just throwing that out there
15 as a problem.

16 CHAIRMAN SMITH: This is sort of a question
17 that is currently faced by poll workers on a regular basis
18 and somebody else would have to come up, perhaps Ms. McGee
19 in the Secretary of State's office to answer questions
20 about how they deal with that question, but there's not
21 anything in this legislation that would alter that issue,
22 change that issue in any way, or alter a standard by which
23 those decisions are made in terms of --

24 SPEAKER: Well, that's not true,
25 Mr. Chairman, because it's an identity requirement. If



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355

1 she provided that piece of ID along with another piece of
2 non-photo ID, you would give discretion to a poll worker
3 to say, "That's not you. I can't verify your identity
4 from the proof presented."

5 CHAIRMAN SMITH: How does that change the
6 current law?

7 SPEAKER: Because it's a presentment
8 standard and not a --

9 CHAIRMAN SMITH: You're talking about the
10 Senate bill?

11 SPEAKER: Yes, the bill we're talking about
12 today.

13 ALMA ALLEN: My voter registration has no
14 Oliver on it at all. So, they would be matching this with
15 that. I would like to say one other thing. (Inaudible)
16 it might be a good idea when registering a voter that we
17 have voter registration with your picture on it. Why
18 can't we have voter registration with a picture?

19 CHAIRMAN SMITH: The challenge is that you
20 can currently register by mail. You just have to fill out
21 the card. I don't think you guys -- I don't think anybody
22 on this panel wants to alter the ability of a voter to
23 simply register by mail from home. You wouldn't want to
24 do that, would you? And -- and so, you know, that's the
25 challenge because they are not going anywhere to register.



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356

1 They are doing it from home.

2 ALMA ALLEN: You could grandfather, the
3 rest of us who have been registered 99 years. Ongoing, we
4 could start with picture ID, change the format all
5 together.

6 CHAIRMAN SMITH: The challenge is how you
7 do that while still allowing people to register from their
8 own living room.

9 ALMA ALLEN: Now, if they can give you an
10 ID card --

11 CHAIRMAN SMITH: If we want to require
12 people to go to some particular location in order to
13 register to vote, then we could probably make a photograph
14 a part of that process, but I don't think you would want
15 me to do that, nor would she.

16 ALMA ALLEN: When I got my passport, I
17 didn't go anywhere. I got my --

18 CHAIRMAN SMITH: Well, we could require
19 that as a part of the registration process, that you also
20 provide a photograph of yourself.

21 ALMA ALLEN: You could go on-line, you can
22 send your picture. Somebody calls me and asks me for a
23 resume or a picture of myself, bang.

24 CHAIRMAN SMITH: Would you support that
25 requiring people to submit a picture of them self along



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357

1 with their voter registration card?

2 JENIGH GARRETT: Even for a passport
3 photograph, you have to pay for a passport photograph.

4 ALMA ALLEN: That's an example of how it's
5 not that difficult to get a picture to wherever you want
6 to get a picture to.

7 JENIGH GARRETT: I think that that's
8 something that I would need to analyze further. My
9 initial reaction is no only because -- there's federal law
10 that governs the ability to register to vote in a lot of
11 different ways.

12 CHAIRMAN SMITH: I just want to mention
13 that Representative Anchia brought up an article in the
14 Fort Worth Star Telegram and I remember having read it
15 and -- and, again, I think that article is an excellent
16 representation of the kinds of difficulties that can be
17 created by the Indiana voter registration, voter ID law,
18 but in the article itself which is trying to get this
19 identification document, it imitates that she submitted
20 her photo military identification, her Social Security
21 card, and other documents.

22 So, embedded within the article is proof
23 that this woman has the necessary documents in her
24 possession to vote under the Texas Senate bill.

25 SPEAKER: Except that they were expired,



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358

1 Mr. Chairman.

2 CHAIRMAN SMITH: The Social Security card
3 was expired?

4 SPEAKER: No, sir, but the photo ID was.
5 It said she had to present two forms of non.

6 CHAIRMAN SMITH: The voter registration
7 card and the Social Security card is certainly sufficient.

8 SPEAKER: The other point I think this
9 article makes is that you need ID to get ID. So, if she
10 just wanted to get photo ID so she would only have to
11 present one form of ID at the polls is what this -- what
12 this bill calls for as the standard, the main standard,
13 the it would have been very difficult for her to comply
14 with that before the election. I think that's what this
15 case illustrates.

16 CHAIRMAN SMITH: Right.

17 SPEAKER: It takes ID to get ID.

18 CHAIRMAN SMITH: If you want the ID that
19 lets you vote with one piece of ID, there are problems.
20 I'll grant you that in this instance apparently this woman
21 was having some difficulty getting a photo ID, but I'm
22 simply making the point which I think is important that it
23 also proves that she had the documentation that would
24 allow her to vote under the non-photo identification
25 alternative that was present from the Senate bill and will



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359

1 presumably also be present in the House bill.

2 SPEAKER: And all she has to do is
3 hope that she has it with her when she goes to vote.

4 CHAIRMAN SMITH: What people do when they
5 understand what the requirements are, and that is comply
6 because of a document that are readily available in her
7 possession. Representative Linda Harper-Brown?

8 Q. (By Representative Harper-Brown) Thank you,
9 Mr. Chairman. Ms. Garrett, thank you so much for being
10 here today. I want to tell you that I have always been
11 impressed with the work the NAACP has done in trying to
12 help minorities understand the various laws and to work to
13 improve the standing of minorities in this state and in
14 the nation. And I wanted to ask you: When you work on
15 these issues, do you work on them in multiple states or
16 are you with the national group or do you work on election
17 laws in other states or are you just focusing or working
18 here in Texas?

19 A. Just to clarify, I'm with the NAACP Legal Defense
20 and Education Fund the LDF. So, we are a national
21 organization. We work on voting right laws throughout the
22 country.

23 Q. Okay. Did you work on the Georgia law?

24 A. The NAACP (inaudible) in Georgia.

25 Q. When did it pass, or when did it go into effect?



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360

1 A. I think it was 2005, but it was right around the
2 time when I started. The litigation was ongoing when I
3 actually arrived.

4 Q. We keep talking about Indiana. So, you didn't
5 actually work in Georgia, then, on that issue or had just
6 started?

7 A. I had just started so I kind of jumped in, but I
8 never physically participated in the litigation.

9 Q. The -- I was looking back at their statistics and
10 in their statistics that are on the Secretary of State's
11 website, in 2000 67 percent of female blacks voted,
12 registered voters, and 57 percent of the males. In 2004,
13 70 percent of the female blacks voted and 66 percent of
14 the males. In 2008, though, after this was implemented --
15 and I notice on the NAACP had a majority had an
16 announcement. In 2008, though, 80 percent of black
17 females voted and 71 percent of black males and that was
18 after the law was in effect and the Supreme Court ruling
19 had come down on this -- on this law.

20 And so, it looks like the numbers have
21 increased in the number of people that have voted even
22 with this ID law in place. And what the news release says
23 here is that the president of the Georgia NAACP had said
24 that although he's not happy about it, once that the --
25 the ruling had come down from the U.S. Supreme Court on



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361

1 voter ID that he would be -- that his group would get out
2 and work now to educate people on -- around the state on
3 how to understand the rules.

4 So, I just wondered if you knew, with you
5 being with the legal defense fund, but I just wondered if
6 the NAACP is going to do the same thing if this bill
7 passes here in the State of Texas.

8 A. I would leave that to the state (inaudible)
9 testify today on that issue, but I would like to make two
10 points.

11 First, it's my understanding that -- again,
12 a clarification of what happens here in Texas -- that the
13 NAACP gives its participation percentages based on actual
14 turnout versus actually casting a ballot. I think that's
15 a distinction that has to be considered because we heard a
16 lot today about provisional ballots, provisional ballot
17 rejection rates, provisional ballot for a variety of
18 reasons and it's unclear whether that was taken into
19 consideration with the president's statement there, but
20 it's just in case you have to clarify whether or whether
21 or not it was relying on that as (inaudible)
22 participation. Also taking into account the particular
23 circumstances surrounding the 2008 election into
24 consideration. And I just said at least -- although I
25 wasn't on the ground in Georgia, I was on the ground in



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362

1 Indiana -- the saturation not just from the state but from
2 the political parties in that particular election and that
3 an election is not just a general election, but it's a
4 school board election and it's the county clerk election.
5 I'm not sure what you-all have in Texas or not. It goes
6 all the way down to these very, very local elections that
7 impact on a local level how people live. So, I would want
8 to take all that into consideration.

9 Q. Well, I believe that this was actually in May of
10 2008 when the president announced that, and I don't know
11 when they hold their other elections in Georgia, but I
12 believe from his press release talking about trying to
13 educate all the voters in the state for all elections.

14 A. (Inaudible).

15 CHAIRMAN SMITH: Members, we are three
16 minutes passed the 30-minute allotted time for the record.

17 Q. (By Representative Bohac) I wanted to say,
18 Jenigh, that your testimony has been outstanding.

19 A. Thank you.

20 Q. I actually could listen to you all day. You've
21 done a great job.

22 A. Thank you.

23 Q. I did hear something earlier that I was going to
24 try to get your take on, and it was from one of the
25 witnesses -- and this will be my only question for you.



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1 One of the witnesses before referenced the
2 former Mayor of Atlanta, Andrew Young, and said that he
3 believed that photo ID could actually be used to elevate a
4 society and that a photo ID can be used as a positive
5 effort to help lift people in society. And I wanted to
6 see your take -- that was kind of an interesting take on
7 this whole photo ID argument, and I wanted to try and get
8 your take on his opinion.

9 A. First, I'm not sure what context -- I come from a
10 legal background, so I would probably have to look at the
11 context of that. I think that we did talk a little bit
12 about how -- and I think Representative Brown raised the
13 issue of photo ID and what photo IDs could do for society
14 in general. However, I connected it to the right to vote
15 is where that aspiration kind of runs afoul of the
16 Constitutional spirit.

17 CHAIRMAN SMITH: Any other questions,
18 members? Thank you very much, Ms. Garrett.

19 JENIGH GARRETT: Thank you, Chairman.

20 CHAIRMAN SMITH: At this time, the chair
21 calls Wesley Tailor. He's the Director of Elections
22 Division, Georgia Secretary of State, testifying -- he's
23 neutral on the bill. Again, for the record -- I apologize
24 for being redundant -- please state your name and who you
25 represent.



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364

1 WESLEY TAILOR: Yes, sir. I've had the
2 pleasure of listening to many people do it before. My
3 name is Wesley Tailor, and I am the elections division
4 director for the Secretary of State of Georgia.

5 Thank you-all for allowing me to address
6 you today. I'm basically going to just discuss Georgia's
7 experience with photo ID. I became the elections director
8 for the State of Georgia in April of last year, thrown
9 into the fire, if you will, right before an election. And
10 fortunately, before that I served as general counsel to
11 the Secretary of State since March of 2007.

12 So, I will be focusing my discussion on
13 Georgia's most recent experience with photo ID, although I
14 will say that Georgia has had over a decade of experience
15 with some form of voter ID, much like what Texas has now
16 and what Texas will have in the future.

17 We enacted our current photo ID legislation
18 in 2006. Currently we you allow six forms of photo
19 identification to be used at the polls -- a driver's
20 license, which actually can be either expired or valid
21 driver's license, a U.S. passport, a government employee
22 photo ID, a valid federal or state government photo ID, a
23 military photo ID, or a travel photo ID.

24 I will tell you about the -- we've had
25 about 16 elections since the implementation of this law in



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365

1 August of 2007. In Georgia we like to have elections, and
2 we've had many of them. We've cast about 9 and a half
3 million ballots with the photo ID in place and my office
4 has received no complaints that anyone has been
5 disenfranchised or turned away from the polls because they
6 lacked a photo ID, and I think that's very telling based
7 on some of the discussions that have been had previously
8 today.

9 If a voter shows up at the polls, of
10 course, without a photo ID, they may cast a provisional
11 ballot and that will be counted if that individual shows
12 back up with a photo ID within two days following an
13 election.

14 In 2006 I heard some issues -- I'm trying
15 not to just talk about what everybody has talked about
16 previously. In 2006, the DOJ, Department of Justice, did
17 pre-clear Georgia's photo ID law, much like it did in 1997
18 when the Department of Justice under then President Bill
19 Clinton pre-cleared Georgia's voter ID law which, as I
20 said, is very similar to Texas' current voter ID law and
21 the one being discussed here today. Of course, the U.S.
22 Supreme Court has addressed all of the Constitutional
23 arguments in last year's Indiana case.

24 Georgia has had its own experience with
25 lawsuits over voter ID and photo ID. I will tell you from



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366

1 that experience I know there's been some discussion of who
2 hadn't had a photo ID or who might not have a photo ID
3 that they can use. We have had some of the most prominent
4 lawyers in the State of Georgia bring lawsuits against the
5 state making those same arguments, and yet still we have
6 not seen one individual who can actually say that they
7 have been adversely impacted by this law or that they
8 would have an undue burden placed upon them.

9 We have -- I heard -- I'm going to address
10 a couple of the arguments very quickly. The one that I've
11 heard is in-person voter fraud doesn't occur and it's not
12 an issue. I will tell you that as an elections
13 administrator I take my responsibility with respect to
14 voting very seriously. I agree with anybody who has said
15 and everybody who has said it here today that voting is
16 the fundamental right and the foundation of our country
17 and Republic, that it's the core -- and I believe all of
18 us here take that at face value, that voting is the core
19 right upon which all other rights are based.

20 So, with respect to whether somebody can
21 vote or whether somebody else's vote is cancelled out
22 because of voter fraud, those are equal in my mind as an
23 elections administrator and you must look at them equally
24 and address both to the extent that you possibly can to
25 make sure that one doesn't cancel out the other or prevent



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367

1 somebody who otherwise is perfectly able to vote to be
2 able to cast their legitimate vote.

3 When you say that voter fraud doesn't
4 occur, Georgia has had its unfortunate share of election
5 fraud in the past. As you heard, the nature of in-person
6 voter fraud makes it very difficult to deter and detect,
7 which does require some proactive measures in dealing with
8 voter fraud. We've enforced our voter laws since August
9 of 2007 following a three-day bench trial by a Jimmy
10 Carter appointee in federal district court in Georgia, and
11 one of the interesting things that Judge Murphy stated in
12 his order which allowed Georgia to implement its photo ID
13 laws in August is that in a previous order the court
14 speculated that the photo ID requirement probably was not
15 even rationally related to the asserted justification of
16 preventing voter fraud. That speculation, however, is not
17 binding on the court and, frankly, proved to be
18 inaccurate, which I find -- having litigated cases
19 before -- fascinating to have a judge actually write that
20 in an order, that he was wrong early on.

21 Argument 2 is that an undue burden is
22 placed on numerous voters. As I've said, after four years
23 of lawsuits we haven't seen a single individual that has
24 come forward. And, in fact, Judge Murphy again in an
25 order wrote, "Although plaintiffs claim to know people who



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368

1 claim that they lack photo ID, plaintiffs have failed to
2 identify those individuals. The failure to identify those
3 individuals is particularly acute in light of plaintiff's
4 contention that a large number of Georgia voters lack
5 acceptable photo ID."

6 With respect to the facts and statistics, I
7 know you've heard or talked much about that. Looking at
8 the 2008 general election, we had a 75 percent turnout for
9 active voters. We have about 5.8 million registered
10 voters total in the State of Georgia, and we had
11 3.9 million votes cast and that was about 700,000 more
12 votes cast in the previous largest election we ever saw in
13 the State of Georgia.

14 The interesting part about that is that
15 Georgia allows for no excuse in-person absentee voting,
16 allows for in-person voting on election day, and it allows
17 for no excuse voting by mail. We saw 92 percent in the
18 general election choose to cast their vote in person. So,
19 only 8 percent -- in fact, less than 8 percent chose to
20 vote by mail. And that was true for the runoff, as well,
21 because we did have a runoff. We received about 80,000
22 more new voter registration applications in 2008 as
23 compared to 2004 when we did not have photo ID in place.
24 In the presidential preference primary we also saw a
25 historic turnout of more than 1 million voters than we had



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369

1 ever had in a presidential preference primary before and
2 that, again, with photo ID in place.

3 With respect to minority, elderly, and
4 female voters which I have heard some people bringing up
5 those are the individuals who might be most affected by
6 voter ID or a photo ID requirement, if you compare 2004 to
7 2008, Georgia saw a -- with respect to Hispanic Latino
8 voters, we saw 140 percent increase in turnout in 2008 and
9 that was just compared to a population increase of about
10 71 percent during 2008. African-American vote increased
11 by 42 percent. The white vote increased by about
12 8 percent, and the 65 and older increased by about
13 24 percent all, again, with photo ID requirement in place.

14 One last thing that I will point out is
15 that I heard earlier that photo ID is described to favor
16 potentially one party over another. In Georgia, the
17 voters did cast their votes in the presidential race for
18 Senator McCain. However, our sitting incumbent, Senator
19 Wright, was forced into a runoff in a very close race with
20 his Democratic opponent very close behind. So, we have
21 not seen that be an issue either. I'll be happy to
22 address --

23 Q. (By Chairman Smith) I just want to make sure.
24 You said your program was very similar to what they
25 propose in Texas. Do you require a photo ID?



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370

1 A. Yes, sir. I was talking about our previous voter
2 ID that we've had in place since '97.

3 Q. Currently you do require photo ID?

4 A. We require photo ID.

5 Q. If you don't have a photo ID, then you must cast
6 a provisional ballot?

7 A. Yes, sir.

8 Q. There's no alternative in your law for providing
9 non-photographic identification documents; is that
10 correct?

11 A. That is correct.

12 Q. Okay. And you talked about the fact with all
13 these ballots cast there's no complaints.

14 Do you have any way to quantify on a
15 statewide level how many provisional ballots are being
16 cast and the process by which you determine whether those
17 votes count or do not count?

18 A. Yes, sir, I can. I can talk about the
19 presidential preference primary, and I can talk about the
20 general election, whatever you prefer.

21 Q. Refer to both.

22 A. Well, I can talk about both. Let me start out
23 with the presidential preference primary. We had about
24 7541 total provisional ballots cast. Of those, 409 --

25 Q. 7500?



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371

1 A. 7500, yes, sir. Of those, 409 were because the
2 individual lacked a photo ID.

3 Q. Okay.

4 A. That's about point 00019 percent of the total
5 votes cast in the presidential preference primary.

6 Q. In the recent Obama elections?

7 A. Yes, sir, in 2008.

8 Q. And 7500 provisional ballots out of how many
9 total votes cast?

10 A. We had 2.2 million.

11 Q. What's the total population of the state?

12 A. Over 9 million.

13 Q. You said how many were provisional due to lack of
14 ID?

15 A. 409.

16 Q. What was the result of those ballots? Were any
17 of those counted?

18 A. Yes, sir. 155 returned.

19 Q. 155 were not counted?

20 A. No, were counted.

21 Q. And what's the standard that you use to determine
22 which ones count?

23 A. Well, you have to show back up with a valid ID
24 within two days following an election.

25 Q. And then the rest were not counted because they



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1 chose not to return?

2 A. Correct.

3 Q. So, by requiring people to show back up, you've
4 got something approaching approximately a third of those
5 counting?

6 A. That's right.

7 Q. You would agree with me that as Florida does it
8 where the vote counts automatically unless sort of a board
9 determines by majority vote that the signatures are not of
10 the same person flips that so that a much greater
11 percentage of those provisional ballots will count if you
12 opted for that procedure? You may not know.

13 A. I don't know. I couldn't extrapolate, but it
14 sounded like theirs did, but he didn't even have the
15 numbers for me.

16 CHAIRMAN SMITH: Okay. Representative --

17 A. I'm sorry. Did you want to know about the
18 general election, too?

19 Q. (By Chairman Smith) Yeah, go ahead.

20 A. In the general election we had 3.9 million total
21 votes cast. We had 17,366 provisional ballots cast total.
22 Of those, 1181 were because the individual did not have
23 photo ID.

24 Q. How many of those were counted?

25 A. 308.



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1 Q. 308 counted?

2 A. Yes, sir. And since you had asked previously,
3 the number of provisional ballots, that's about point
4 0003 percent of the total votes cast.

5 Q. That was not counted?

6 A. That were just provisional ballots.

7 Q. But the number that was not counted would be
8 something smaller than that?

9 A. Yes.

10 Q. And the numbers you gave us earlier -- that was
11 the general election. The numbers you gave us earlier
12 were what?

13 A. The presidential preference primary.

14 CHAIRMAN SMITH: Yes, Representative Bohac?

15 Q. (By Representative Bohac) Mr. Taylor, I find your
16 testimony as equally compelling as Jenigh's. This is
17 almost a perfect scientific experiment that you're
18 bringing before this body. It really is. So, thank you
19 for coming here.

20 Really three questions for you. Number
21 one, did you just testify that 92 percent of Georgians
22 vote in person or voted in person even though you have
23 what we would consider vote laws that are pretty liberal?

24 A. Yes.

25 Q. 92 percent voted in person?



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374

1 A. Yes.

2 Q. So, a little -- so, these provisional ballot
3 numbers that you gave us that were cast are really
4 interesting in light of the sheer number of people that
5 voted in person.

6 Here's my second question. What do you do
7 in case of a name mismatch like we heard Dr. Allen testify
8 a moment ago that her license may say Alma misspelled, but
9 on the other hand she goes by Dr. Alma Allen.

10 How would you-all treat that in Georgia?

11 A. Well, we actually have change of name forms that
12 people use when they come to the poll. So, they will
13 actually do a change of name form even when they are
14 voting. That's one of the things that folks do quite
15 often, actually. I will say also in this past election,
16 especially in the general election, there was a
17 significant voter registration drive, so to speak. We
18 handed out out of our office about 2 million voter
19 registration applications, and what we found is
20 percentage-wise the new voter registration applications
21 didn't increase but we did get a lot of folks changing --
22 updating their information, changing their names, changing
23 their addresses, whatever needed to occur to update their
24 information.

25 Q. So, in this case, would that vote count in case



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1 of a name mismatch?

2 A. Sure. I mean, you could -- obviously it would be
3 whether the individual can be matched and whether the
4 individual could be verified, but most of the time I would
5 see no issue with that.

6 Q. And then, thirdly, you said of the 12 elections
7 that you-all have been through -- that you-all have held
8 there have been no reports, not one of disenfranchisement
9 as a result of Georgia's voter ID law?

10 A. No, sir. If I said 12, I misspoke. We've
11 actually had 16. We just had one in March.

12 Q. I would say, Mr. Tailor, there's hysteria on both
13 sides of this issue and your testimony for me has been
14 very mainstream because we looked at it more
15 scientifically and tried to remove the emotion.

16 So, I want to thank you for coming to our
17 state and testifying. I've never heard you before, I've
18 never seen you before, and your testimony has been truly
19 compelling and thank you for that.

20 A. Thank you.

21 Q. (By Representative Bonnen) Just a couple quick
22 questions. I was using some Georgia numbers earlier and
23 one of the comments or retorts -- I think it was a fair
24 one -- well, it's fair in that I think we would agree
25 there are a number of reasons why voter turnout goes up or



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376

1 down. But the interesting question left to ponder the
2 witness left was, yes, I know turnout was up and I know
3 the African-American population went way up in Georgia and
4 all, but had voter ID not existed, we only know how much
5 further it would've even gone up. I'm asking you somewhat
6 to speculate, but I actually think based on the numbers
7 you may not have to.

8 Do you have any information or any fact
9 basis or anything you can share with us that would
10 indicate one direction or the other as to whether voter ID
11 had an impact on reducing the turnout not only of
12 African-Americans but of any voters in Georgia or not?
13 Other than the obvious data of the actual turnout itself.

14 A. Right. I'm an elections administrator. I'm not
15 a mathematician. I haven't studied any of that, but I
16 will just say that I don't know whether photo ID increases
17 voter turnout. I just don't know that to be the case; but
18 the nice part in administering the law that was passed by
19 the legislature and signed into law by the governor is
20 that I haven't seen any evidence that it has been an undue
21 burden on anybody to comply. That's the one thing I can
22 say.

23 Q. Do the numbers make sense to you in Georgia in
24 that -- well, you know them, so I don't need to repeat to
25 you, but the significant increase in the African-American



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1 vote in the '08 election.

2 Is there any reason for you to speculate
3 that had voter ID not existed that it would have been an
4 even greater increase?

5 A. Based on the numbers that have been talked about
6 today, I just don't know how. I mean, we had -- as I say,
7 the overall voter turnout was about 75 percent of the
8 active registered voters. So, with the numbers that I had
9 heard earlier, I haven't looked at specifically for
10 African-Americans or Hispanic Latino or anything. But
11 just based on those, I don't know how, especially if you
12 look at historic turnout numbers.

13 Q. Right. What is the average historic turnout in
14 Georgia?

15 A. It's right in that mid Seventies.

16 Q. Is it?

17 A. Yes, sir. We're talking about general elections.

18 REPRESENTATIVE BOHAC: Right. Thank you
19 very much. Appreciate your time.

20 CHAIRMAN SMITH: Any other questions?
21 Representative Anchia?

22 Q. (By Representative Anchia) Thank you, Mr. Tailor.
23 Thank you for being here today. I wanted to talk to you a
24 little bit about the numbers that you gave us and have you
25 articulate. To make it easy, let's just talk about the



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378

1 general election numbers.

2 A. Yes, sir.

3 Q. 3.9 -- and I want to make sure I wrote them down
4 correctly. 3.9 million voters in the general in Georgia?

5 A. Right.

6 Q. 17,366 provisionals?

7 A. Yes.

8 Q. Of those provisionals, 1,181 were for no ID?

9 A. Correct.

10 Q. Of those, 308 were counted because people were
11 able to come back; is that right?

12 A. Correct. I don't know about "were able," but
13 they decided to come back, yes.

14 Q. Okay. In some cases, they may not have been able
15 during the two-day period. Right?

16 A. We just don't know.

17 Q. Have you reached out to any of the people who
18 didn't have ID and didn't come back within the two-day
19 period? Have you done anything systematic?

20 A. Actually what we did is before the general
21 election, in getting ready for the general election and
22 every election before that when photo ID went into effect,
23 anybody who voted a provisional ballot and didn't come
24 back, we actually mailed them a letter that said, "Hey,
25 not sure why you didn't, but just so you know, photo ID is



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379

1 required. Here's how you can get one," and we did an
2 active reach-out to those folks.

3 Q. Is that a requirement that you send them that
4 letter?

5 A. No.

6 Q. Thank you. After any of the elections have you
7 studied the reasons why people may not have come back?

8 A. No, sir, we have not.

9 Q. You send them a letter, and I think it's good to
10 inform them of the requirement and use it as an education
11 opportunity, but you haven't looked at the reasons why in
12 this case maybe 800 people -- a little more than 800
13 people didn't come back?

14 A. Right.

15 Q. Okay. Okay. Would you characterize any of those
16 800 people as disenfranchised?

17 A. No, sir.

18 Q. Why not?

19 A. Well, disenfranchising -- in fact, I've heard
20 that word passed around. That's actually to deprive the
21 rights of citizenship, especially the right to vote, and
22 none of these individuals were deprived the right to vote.
23 In fact, they were able to cast a vote on election day and
24 they had to ability to either come back or to not come
25 back. They chose one way or the other. And also in



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380

1 Georgia, don't forget, we have the absolute right to cast
2 a mail-in ballot with no photo ID requirement. So, no,
3 these individuals were not disenfranchised.

4 Q. But their vote was not counted. So, you had
5 about 800 or so people whose vote was not counted because
6 they didn't return to present some form of ID?

7 A. Yes.

8 Q. Otherwise, they had no other infirmity than that.
9 Right? They were citizens of the United States, they were
10 validly registered. They had no ID. Is that the fact
11 pattern that we're looking at there? They didn't have the
12 requisite ID, let's say that, to be fair.

13 A. They did not have the requisite ID. Whether they
14 were eligible, all of the other issues, I just don't know
15 at this point in time, but I do know that was the issue.

16 Q. Would you think that the law would disenfranchise
17 people -- if the Georgia law did not have the two-day
18 return opportunity, would you then call it
19 disenfranchisement if people were not able to come back
20 and remedy that situation?

21 A. Well, again, it depends on --

22 Q. In this case, 1181. If Georgia did not have the
23 ability to come back, a two-day window, would you say that
24 those people that were disenfranchised, that 1181?

25 A. Well, except for provisional ballots are a



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381

1 federal requirement. So, I don't think there's any way
2 that you couldn't allow somebody to vote provisionally in
3 a federal election.

4 Q. But the fact that their ballots were not counted
5 as regular ballots if they did not have the opportunity to
6 return, would you consider that disenfranchisement?

7 A. In the -- I'll have to think about that,
8 actually, because I just haven't given that hypothetical
9 consideration.

10 Are you taking away the no excuse absentee
11 voting by mail?

12 Q. Yes. Let's say that's also, as well.

13 A. I just have to think about that.

14 Q. So, no -- so, you can't vote absentee, no excuse,
15 and you don't have the ability to come back.

16 A. I guess I have a problem -- let me ask you this.
17 I'm trying to figure out what the idea of
18 disenfranchisement and how far you go with it because
19 voting at a precinct, if somebody can't get to the
20 precinct and can't vote absentee, that's a requirement,
21 and would that be considered disenfranchisement?

22 Q. Certainly their vote didn't cast. I would argue
23 that we have this inalienable right and we have -- we
24 should have the ability to cast that vote and every
25 obstacle or combination of obstacles that limits that



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1 increases or decreases the potential for
2 disenfranchisement. I wouldn't say it's one thing.
3 Specifically things in combination. And our policy
4 balance here is, you know, access to the franchise. This
5 is articulated in Carter/Ford and Carter/Baker versus
6 potential obstacles for voting. That's the balance. And
7 on balance I would say the more requirements that you put
8 out there, the less opportunity an individual is going to
9 have to exercise the franchise. In the past it was a poll
10 tax or it was white-only elections. Those were all
11 obstacles that limited the free exercise of
12 African-Americans or literacy tests for Hispanics, for
13 example, from exercising their franchise. I would say
14 that goes toward disenfranchising, for example.

15 A. I will agree with you on those, absolutely.

16 Q. So, the reason I asked you about the no excuse
17 election plus the no ability to come back -- your
18 testimony is that you're in favor of the Frazier bill,
19 correct?

20 A. Actually, I'm really here just to testify about
21 Georgia's experience with photo ID.

22 Q. Is it on the bill or in favor of the bill?

23 A. It's neutral.

24 Q. Okay. Good. I'm glad to hear that because the
25 Frazier bill doesn't include any opportunity to come back,



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383

1 right, and we also in Texas don't have a no excuse mail-in
2 ballot policy. So, I mean, in that sense it is -- it
3 would be difficult because once you cast a provisional
4 under the Frazier bill there's no ability to come back and
5 remedy it is my understanding. So, I'm glad we were able
6 to flesh that piece out.

7 Can i talk to you a little bit about how
8 you run your elections?

9 A. Go for it. I'm sorry. Yes.

10 Q. No, no. I really appreciate the casual colloquy.
11 Among lawyers it's okay, I think. One little, quick
12 thing.

13 You talked about the fact that we dispensed
14 with all the Constitutional arguments on voter ID. Is
15 that accurate?

16 A. The facial --

17 Q. As lawyers, it's important to distinguish. I
18 think somebody else said it today. (Inaudible) ruled
19 Constitutional, but there is a difference between facial
20 and misapplied. Right?

21 A. Of course.

22 Q. And the Supreme Court has left open the question
23 whether these photo ID laws are Constitutional as applied?

24 A. Sure.

25 Q. Okay.



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384

1 A. I'm sorry. And that's why it's important, at
2 least for me, that we've had 16 elections and haven't had
3 anybody come forward. So, at least on the facial
4 challenge that's been dealt with hopefully as applied at
5 least thus far in the State of Georgia. We've had a good
6 experience.

7 Q. And we might differ in our interpretation of the
8 800 or so people that didn't have their provisional vote
9 counted. It's clearly your testimony that those folks are
10 not disenfranchised. I might take a different approach
11 and that's where we might disagree, but what I really want
12 to get at is stuff that we'd agree on. The spirit of
13 Carter/Baker and its predecessor Carter/Ford was to,
14 again, balance the franchise with access to ID -- excuse
15 me -- security with access to the franchise?

16 A. Yes, sir.

17 Q. So, how much did Georgia spend to get people free
18 identification? Do you recall the numbers on that?

19 A. I know generally, yes, sir. Except for on the
20 identification itself, it was -- I'm not sure exactly the
21 number on the identification itself, but on education
22 efforts I know we've spent over a million dollars.

23 Q. Okay. Is that per anum, or was that up front?

24 A. No, sir. That was a specific allocation by the
25 legislature, the Georgia legislature, to educate the



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385

1 population about the requirements.

2 Q. And what about -- sorry. Texas has 25 million
3 people. How big is Georgia?

4 A. A little over 9.

5 Q. Was that just for voter education? Did you spend
6 any other amount on poll worker training?

7 A. Well, poll workers actually have to be trained
8 before every election in Georgia, which means they have a
9 lot of training. Everybody can tell from the number of
10 elections. So, that's built in. We also have --

11 Q. And what's that on an annual basis from general
12 revenue?

13 A. The state doesn't spend -- that's all done at the
14 county level.

15 Q. That's all at the county? The state doesn't
16 subsidize the county at all? It doesn't give them
17 elections money? Do you know how much that is if you
18 aggregate the counties?

19 A. I do not. I will say, though, that on the state
20 level we did produce -- we did actually develop a photo
21 identification on-line training course that poll workers
22 had to take and were required to take in order to become
23 familiar with photo ID requirements.

24 Q. And you also have mobile buses that travel the
25 state providing IDs; is that right? Did you have mobile



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386

1 ID centers?

2 A. In theory. I'm not sure that actually ever
3 materialized.

4 Q. Never materialized?

5 A. Yes, sir.

6 Q. Because that's one of the suggestions. It's not
7 a recommendation, but they gave -- there's a for instance
8 in Carter/Baker that says you can do these mobile units
9 and I was wondering if you-all included that in your
10 outreach to folks to get them IDs.

11 A. We did not, no, sir.

12 Q. Okay. Let's see. How much did you spend in
13 voter registration? I'm talking three pockets of money.
14 First one was getting people IDs, the second one was to
15 train folks, and the third bucket of money would be just
16 on voter registration, getting new people registered in
17 the system.

18 How much do you spend on an annual basis
19 for that?

20 A. Well, we spend millions on the voter registration
21 system itself. If you're talking about the voter
22 registration system --

23 Q. I'm talking about outreach, voter registration.
24 How much do you-all spend per anum on that?

25 A. That would have been included in some of the



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387

1 photo ID. We would have been talking about get
2 registered, get your photo ID.

3 Q. Okay. So, you didn't aggregate the cost of
4 getting people free ID, for example, from the bucket of
5 money that is for voter education from the bucket of money
6 that is outreach to get people registered?

7 A. I just don't know it off the top of my head.

8 Q. Okay. Is there a tension between no excuse
9 mail-in ballot and having a photo ID at the polls from a
10 philosophical perspective? You talked about your
11 experience with voter fraud generally.

12 Was that experience with mail-in ballot
13 fraud?

14 A. For the most part.

15 Q. Okay. For the most part?

16 A. In my experience -- I will be honest. As an
17 administrator, I haven't seen a whole lot of fraud yet, of
18 course. It's been in place -- I've been here doing this
19 since photo ID went into place.

20 Q. So, you've spent all your time with photo ID?

21 A. Yes.

22 Q. Most of it, based on your experience, has been in
23 mail-in ballot fraud?

24 A. The cases I have seen have been prior to this
25 administration and to the current Secretary of State and



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388

1 my role. So -- but I have seen some mail-in ballot fraud.
2 Yes, sir. In fact, we had a case that we just tried last
3 week.

4 Q. What are some of the things that you do in your
5 mail-in ballot system to avoid fraud? What are some of
6 the systemic controls that you have in place?

7 A. Sure. Actually, we did this a bit piecemeal, as
8 well. Photo ID was passed in 2006. It was enjoined by
9 the same federal judge that I quoted earlier twice. So,
10 he had enjoined it until 2007 when the trial happened, but
11 in the meantime, working with the state legislature, we
12 passed a triple signature check on absentee ballots,
13 mail-in absentee ballots. So, registrars have to actually
14 compare the signature on the voter registration
15 application to the signature on the absentee ballot
16 application to the signature on the absentee ballot
17 itself. So, you have to actually check to make sure all
18 of those signatures --

19 Q. Three times?

20 A. Yes, sir. We also made absentee ballot fraud a
21 felony. Surprisingly enough -- you may or may not find
22 this surprising. Prior to the current Secretary of State
23 coming into office, mail-in voter fraud was a misdemeanor.
24 In-person voter fraud was a felony. So, voter fraud is
25 voter fraud regardless of whether it occurs by mail or in



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389

1 person. So, we increased that to felony status and also
2 we vigorously investigate any allegations of fraud.

3 Q. Okay. This is my last question. I want to make
4 sure you're testifying on the bill, not in favor of the
5 bill as a resource witness, correct?

6 A. Yes, sir.

7 Q. And none of your testimony speaks to any study
8 that you've done as to the Texas system or how it might
9 impact Latinos or African-Americans in Texas, correct?

10 A. I can only give you my experience in Georgia.

11 REPRESENTATIVE ANCHIA: Thank you. I
12 appreciate your testimony.

13 CHAIRMAN SMITH: Representative Brown?

14 Q. (By Representative Harper-Brown) I'll be very,
15 very brief. You haven't really addressed the
16 pre-clearance required -- provides -- required by the
17 Department of Justice.

18 A. Yes, ma'am.

19 Q. And I think you might address the fact that Texas
20 is pretty much in the same category that Georgia is. So,
21 rather than compare us to Indiana, it would make more
22 sense for us to compare our experience to yours in that we
23 don't have (inaudible), as well.

24 Would you like to address that, what you
25 had to do?



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390

1 A. I would be happy to. We did have to submit this.
2 Georgia is subject to Section 5 of the Voting Rights Act,
3 unfortunately, for its past practices before 1965. So,
4 yes, we do have to pre-clear all changes in voting
5 statutes, voting laws. We did pre-clear the current photo
6 ID law in 2006, and we submitted the normal submission --
7 the attorney general's office actually makes those
8 submissions, but -- but it was just the normal
9 information. We've now had, I want to say, experience
10 with photo ID and we haven't seen any issues with
11 application thus far on -- to show any retrogressive
12 effect or undue burden on minorities in the state of
13 Georgia. Like I said before, back in 1997 we passed a
14 voter ID requirement that is similar to Texas', and that
15 was passed by a Democratic legislature with a Democrat as
16 the governor of the State of Georgia and it was
17 pre-cleared by the then President Clinton's Department of
18 Justice.

19 Q. How long was it from the time that you -- the AG
20 submitted the pre-clearance material and the time the bill
21 could actually begin?

22 A. Well, we had the -- we also had to contend with
23 numerous lawsuits that were filed and the facial
24 challenges to the law. And so, Judge Murphy actually
25 enjoined the law in the meantime. So, it never went into



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391

1 effect actually until August of 2007, but the
2 pre-clearance side of things didn't take any longer than
3 the normal time period, I believe, which is about 60 days
4 unless they ask for additional information, which would
5 then increase it to another 60 days after the State of
6 Texas answers the questions or sent their information.

7 Q. So, then, after that time period is up, you're
8 kind of on probation for a while? Or when you said that
9 "we had no problems," is there a period of time that you
10 have to prove yourself?

11 A. No, ma'am.

12 Q. Okay.

13 A. They either interpose an objection at the
14 beginning, or they do not. "They" being the Department of
15 Justice.

16 REPRESENTATIVE HARPER-BROWN: Thank you.

17 Q. (By Chairman Smith) Just to be clear as a
18 follow-up there, how long was it between the point in time
19 when the bill passed and the point in time the bill went
20 into effect?

21 A. The legislature in Georgia is in January to
22 usually April, and it would have passed in 2006 and the
23 injunctions lasted until August of 2007.

24 Q. Okay. So, it passed from when -- do you know
25 when in 2006, somewhere --



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392

1 A. April is a good --

2 Q. April of '06 to August of '07?

3 A. Yes.

4 Q. Okay. And -- and that was as a result of the
5 pre-clearance time through the Clinton Justice Departments
6 and -- is that --

7 A. No, sir.

8 Q. Did you not say Clinton?

9 A. That was for '97. This one went with Bush
10 Department of Justice.

11 Q. That would make sense. Were you referring to
12 something that did happen during the Clinton --

13 A. Yes, sir. That was the previous -- we used to
14 require 14 forms of ID starting in 1997.

15 Q. Do you have any knowledge yourself about how that
16 time -- if you choose -- might have been -- the state can
17 choose to have us pre-cleared through the Washington, D.C.
18 Court of Appeals?

19 A. The district court.

20 Q. The district court?

21 A. I believe so.

22 Q. Okay. Do you know if it takes longer for that
23 process, or is it presumably the same period of time?

24 A. I would be speculating and talking on hearsay on
25 that.



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393

1 SPEAKER: Mr. Chair, we have a resource
2 witness that could speak to that. Toby Moore, I think,
3 was with DOJ.

4 Q. (By Chairman Smith) I just want to make a map
5 point here. We've heard testimony before from the state
6 of Florida. You're providing testimony for the State of
7 Georgia. Both of these have card -- mandatory photo ID
8 requirements.

9 Is it fair to presume in your judgment that
10 if Georgia, instead of implementing a hard photo
11 identification requirement had implemented a requirement
12 like the one proposed in Centerville where it provides a
13 photo identification or your voter registration card and
14 one of these lists of non-photo identification documents
15 that the number of -- of provisional ballots would be less
16 with that alternative non-photo requirement available to
17 you than it would be with a hard photo requirement?

18 A. I don't know that that's true.

19 Q. Okay.

20 A. I really don't. Like I say, we've had some form
21 of voter ID requirement in place since '97, and I can't go
22 back and look at the provisional statistics from previous
23 elections because we started to collect it and require the
24 counties to actually report that to the Secretary of
25 State, but I don't know that that's correct. I imagine,



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394

1 you know -- I just don't know.

2 Q. So, you don't necessarily presume by providing
3 simply an additional alternative that is not available in
4 your law that that reduces the number of provisional
5 ballots?

6 A. It certainly would make sense, but I --

7 Q. You don't know?

8 A. No, sir.

9 Q. Okay. What we do know is that you provided us
10 with statistics indicated that in your system 900 votes
11 didn't count with 3.9 million cast. Under Florida, there
12 were 8.3 million cast and there were 394 that did not
13 count. So, they had twice as many more voters and the
14 number of votes was reduced by somewhere between --
15 approximately 40 percent. Instead of 900, it's 394
16 presumably because of the difference in the way that they
17 handle their provisional ballots in terms of how it is
18 determined whether it counts or whether it doesn't count.

19 So, if your vote total of 3.9 million had
20 been more like Florida's vote total of 8.3 million, then
21 roughly presumably if the same proportions apply, you
22 would have had about 2,000 voters not counted under a -- a
23 provisional ballot system which does not allow a similar
24 signature to make the vote automatically count, which you
25 require for the voter to do something affirmatively within



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395

1 a finite period of time. Right?

2 SPEAKER: Object as compound. I'm sorry.

3 Q. (By Chairman Smith) I would think that if your
4 voter turnout had increased to 8.3 million that the number
5 of votes not counted would have increased proportionately
6 to approximately 2,000.

7 A. I would hate -- this is why I was hoping to stick
8 with what we had and what I saw in Georgia and what we've
9 experienced. I would hate to speculate as to what would
10 happen. Sure, you can do the math and extrapolate and
11 multiply it by two, but I can only tell you what we
12 experienced.

13 Q. Okay. I just wanted to indicate that on the
14 record that if you do that math and you extrapolate it out
15 and you assume if you double the turnout with Florida the
16 number of votes that did not count would double, then
17 roughly the difference between the number of votes that
18 are not counted in Georgia with the same turnout as
19 Florida with the same turnout drops from about 2,000 to
20 394 on 8.3 million cast because of the difference in the
21 way that they handle the provisional ballots. I'm simply
22 trying to point out there's evidence -- there's a
23 substantial difference in the number of votes that are not
24 counted if you handle those signatures one way, which is
25 the point made in the U.S. Supreme Court and why those



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396

1 three more liberal justices expressed a strong preference
2 for the Florida law in terms of how they handle the
3 provisional ballot.

4 A. Actually, we had one of those dissenting judges
5 point to Georgia's law as actually one that he could stand
6 behind, as well.

7 Q. I don't recall the basis of that.

8 A. It was because of how we provide for provisional
9 ballots and how we count those, as well.

10 Q. He liked yours much better than he liked
11 Indiana's?

12 A. Apparently.

13 CHAIRMAN SMITH: All right. Okay.
14 Representative Heflin?

15 Q. (By Representative Heflin) Just so I'm clear.
16 So, in '97 you did a voter identification law and then in
17 '05, '06 at some point in time you did a photo ID law that
18 was enacted in '07?

19 A. Correct.

20 Q. That's what you've been operating under for the
21 last 16 elections. Why do you have so many elections? I
22 just had to ask.

23 A. I asked that, too. I guess we just like
24 elections.

25 Q. Okay. And so, you've been there since '07?



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397

1 A. Yes, sir.

2 Q. Based on what you know -- this may have been
3 already asked and answered. So, as far as instances of
4 voter -- allegations of voter fraud or voter
5 impersonation, you've basically been clear. Is that what
6 you would say?

7 A. As far as I know, I'm not aware of any. I will
8 say that our enforcement side is actually done by an
9 inspector general who is also under the Secretary of
10 State, but I do the administration of the elections and
11 she does the enforcement of the election law. So, if
12 there are cases independent that she is aware of, she may
13 be aware of something that I am not.

14 Q. One of the provisions you did do is you raised it
15 to a felony grade offense on mail-in ballots?

16 A. Yes, sir.

17 REPRESENTATIVE HEFLIN: Thank you.

18 CHAIRMAN SMITH: Just for the record, we're
19 four minutes over. Take that into consideration, if you
20 would, Representative Bohac.

21 Q. (By Representative Bohac) This will be very
22 quick. Do you have early voting in person?

23 A. Yes, sir.

24 Q. How many days does that last?

25 A. 45.



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398

1 Q. 45 days?

2 A. Yes, sir. It's actually the exact same -- and
3 this is something that we enacted last year, actually, or
4 the legislature enacted last year. It corresponds with
5 the number of days for mail-in ballots.

6 Q. I've been trying to get to this 92 percent
7 figure. So, I've been trying to get around to it, and I
8 think that probably helped me understand this 92 percent
9 figure because I've just been shell shocked by that
10 figure.

11 I want to talk to you now real quick about
12 the -- what level of a felony is the ballot by mail?

13 A. You're talking about a felony grade? Well, in
14 Georgia we don't do felony grades for the most part. You
15 have a specified sentence in terms of money or years, but
16 a felony is a felony.

17 Q. Tell me what that is in Georgia, if you know.
18 How many days in jail?

19 A. I think it's five years and \$100,000, along those
20 lines. Up to.

21 Q. Okay. And then finally -- and this is the last
22 portion of my question.

23 Prior to moving to voter ID, you still had
24 provisional ballots that was in effect prior to moving
25 photo ID, correct?



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399

1 A. Yes.

2 Q. How many provisional ballots as a percent of the
3 total ballots cast -- I know the hour is late.

4 What I'm trying to get at, is your
5 provisional ballots roughly the same as they were before
6 photo ID when they were just merely voter ID as opposed to
7 photo ID or do you know the answer?

8 A. I knew from the start of your question you were
9 going to ask me that, and I don't know. I'm sorry. I
10 don't know what off the top of my head. I will say that
11 most of our statistics are right up on our website, on the
12 Secretary of State's website in Georgia, but I don't know
13 that.

14 Q. Thank you. I've been to Peachtree City in
15 Georgia many, many times. I love your state. So, thank
16 you.

17 CHAIRMAN SMITH: Representative Heflin?

18 Q. (By Representative Heflin) One more quick
19 question. I have to ask this. I'll spend an extra minute
20 tonight. So, in the last two years you've had 720 days of
21 early voting going on. So, the last two years you've
22 basically been early voting all but 10 days?

23 A. Well, I say 45. It's 45 for general elections
24 and general primaries. Special elections is a shorter
25 period of time. But for the general elections and



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400

1 generally primaries, that's 45 days.

2 Q. I like early voting.

3 A. Our voters do, too. I do, too. We had more than
4 half of our votes cast early.

5 REPRESENTATIVE HEFLIN: Thank you.

6 Q. (By Chairman Smith) Is there any way for you to
7 describe for us the extent of the locations, the early
8 voting locations throughout the state?

9 A. Sure. Well, Georgia is like Texas. We like our
10 counties. I think we're the second most after Texas with
11 159. All of those counties have a voter registration
12 office or an elections office. So, each county would have
13 at least one location which would be the election office
14 or registrar's office. In our major metropolitan
15 counties, they could have as many as seven early voting
16 centers interspersed around the county. Many with five,
17 four, three.

18 Q. What are the hours -- do you know what hours the
19 polls are open?

20 A. In Georgia and I think in Texas elections are
21 administered actually by the county elections officials,
22 especially the general election. So, they get to set
23 their hours that they are open, but they can vary from
24 normal business -- they have to be open at least normal
25 business hours of the county. Some counties, the week



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401

1 before an election or even the two weeks before will open
2 up their offices, say, 7:00 to 7:00 or 8:00 to 7:00, what
3 have you.

4 Q. Up to the county?

5 A. Yes, sir.

6 CHAIRMAN SMITH: Any other questions,
7 members? Thank you very much. Appreciate it.

8 WESLEY TAILOR: Appreciate it.

9 (End of Volume 2.)
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403

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A				
AARP	335:23	336:18	368:9 377:8	administered
287:19 302:6	346:23	339:14	379:2	400:21
Abbott	348:3	368:5	activities	administe...
262:5,24	351:12	accepted	283:15	376:18
263:12	354:12	316:7	activity	administr...
265:6,6	367:1,2	access	333:17	353:3
266:9	378:11,12	264:1 275:24	actual	administr...
270:17	378:14	326:22	258:19 268:6	277:3 387:25
271:1,8	379:23	327:23	361:13	397:10
281:13	380:19	332:7 337:9	376:13	administr...
284:14	383:5	348:4,18	acute	278:13
285:20	abolish	350:22	368:3	administr...
286:14,15	291:7	382:4	ad	366:13,23
286:24	abolished	384:14,15	298:3	376:14
289:9	291:1,4	account	add	387:17
293:22	329:15	310:20	345:12	administr...
294:10	abolishing	346:25	addition	264:9
297:10	331:12	347:7,20	350:12,24	admit
299:18,20	absence	361:22	353:6	260:4,4
Abbott's	340:16	accumulated	additional	291:9
268:9 271:12	absentee	333:11	258:24 286:6	admitted
abilities	368:15	accurate	307:5	257:12,14
285:22	381:10,14	383:15	316:14	259:18
ability	381:20	accused	336:4	260:8 269:2
249:15,20	388:12,13	299:12	340:22	269:3
250:8	388:15,16	accuser	346:1 391:4	298:16
298:10	388:20	304:9	394:3	301:25
300:14	absolute	achieving	address	adopt
333:24	380:1	332:5	277:9,13	320:11,14
350:8	absolutely	acknowled...	290:1 332:4	337:9
355:22	261:7 266:17	279:1	336:23	adopted
357:10	266:19	Act	341:2	320:19
379:24	274:20	255:15,23	344:20	351:10
380:23	276:21	256:3,9	345:4,18,24	adoption
381:15,24	288:13,16	257:14	346:9,21	332:22
382:17	290:23	268:25	364:5 366:9	advance
383:4	299:14	277:21	366:24	327:14
402:10	302:18	305:17,22	369:22	341:22
able	303:3	332:19	389:19,24	adverse
249:4,9	382:15	390:2	addressed	309:18
262:11	academic	action	339:25 341:3	315:16
295:12	297:8	254:23 283:6	365:22	adversely
299:22	accept	403:2,4	389:15	289:5 334:21
313:12	256:16	actions	addresses	366:7
326:8,15,15	289:11	255:14	374:23	advertise
328:15	322:22	289:12	adequate	298:6
333:14	acceptable	300:16	275:24 335:5	affect
	258:11 328:8	active	338:15	



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261:16	aftermath	257:9,11,19	329:23	357:4 374:8
288:14	334:3	270:15,18	354:8,13	374:9
affidavit	afternoon	271:19	355:13	alter
290:23	331:6	272:6	356:2,9,16	354:21,22
346:16,16	AG	402:19	356:21	355:22
affirmation	390:19	AG's	357:4 374:7	alternative
330:11	age	299:17	374:9	326:13
affirmati...	252:25	301:13,13	alleviate	358:25
394:25	agency	ahead	345:19	370:8
affirmed	277:5 339:19	253:21	allocation	393:16
259:8 275:13	339:21	270:20	384:24	394:3
282:19	aggregate	331:1 345:6	allotted	alters
affluent	385:18 387:3	372:19	285:13	297:3
332:24	ago	aimed	362:16	amazed
afford	260:16	256:13	allow	272:18
276:6,18	264:10	air	251:2 285:16	amazing
280:13	272:7	260:23 303:9	286:2	284:23
afoul	325:17	303:10	358:24	ambiguity
363:15	348:20	airplane	364:18	249:1
African	353:10	322:1,2	381:2	Amendment
282:5 322:11	374:8	aisle	394:23	329:14
345:10	agree	250:11,12	allowed	Amendments
African-A...	271:5 273:23	Al	248:14	332:18
257:10	295:9,13	259:12	260:16	America
297:14	311:14	Alabama	262:22	305:17,22
298:23,24	314:22	329:16	282:17	American
303:16,17	315:13	Alabee	284:22	324:3
306:14,16	316:17,18	354:11	367:12	Americans
306:22	318:12	allegation	allowing	282:5 308:8
323:22	344:25	299:10	356:7 364:5	322:10,11
324:2	348:11	315:18	allows	322:19
331:13	349:1,10,20	allegations	272:1 320:16	323:1
338:11	350:1	297:13 299:2	368:15,16	345:11
352:1	351:16	299:8	368:16	amount
369:10	366:14	300:20,20	alluded	300:14 385:6
376:3,25	372:7	300:23	311:11	analysis
African-A...	375:24	389:2 397:4	all-white	307:1,9
302:25	382:15	alleged	281:25	313:8 333:1
322:15,25	384:12	256:24	Alma	analyst
323:7 331:9	agreed	268:14	274:14	304:6,17
334:19	255:8 257:7	269:6	316:21,23	analyze
352:14,17	257:17,23	303:11,13	317:5,8,11	307:20 357:8
352:18,20	269:14	Allen	327:17	analyzed
353:7	270:22	274:14	329:23	306:2 307:10
376:12	271:1	316:20,21	354:8,10	Anchia
377:10	280:22	316:23	355:13	310:9,10
382:12	282:16	317:5,8,11	356:2,9,16	314:10
389:9	agreement	327:17	356:21	



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351:20,21	384:3	351:18	350:4 381:22	aspects
357:13	anymore	apply	argument	256:4 348:15
377:21,22	352:7	281:19	363:7 367:21	348:23
389:11	apartment	394:21	arguments	aspiration
Andrew	344:22	applying	365:23 366:5	363:15
363:2	apologize	349:22	366:10	assert
and/or	261:6 264:12	appointee	383:14	308:4
331:12	264:14	367:10	Arizona	asserted
336:21	363:23	appointees	312:16 315:9	367:15
352:13	apparently	279:14	315:9	assertion
402:12	264:24	appreciate	arose	315:18
Anglo	358:20	278:25 282:9	262:6	assist
323:1	396:12	288:19	arrived	274:17
Anglos	appeals	293:19	360:3	assistant
322:14	279:17	304:2 330:4	article	331:4
announce	296:10,11	351:2	357:13,15,18	assisted
286:4	392:18	377:19	357:22	262:5
announced	appear	383:10	358:9	Associate
362:10	298:15 311:1	389:12	articulate	305:1
announcement	appeared	401:7,8	377:25	assume
360:16	338:12	approach	articulated	326:7 395:15
annual	appears	384:10	382:5	assuming
258:4 385:11	258:22 322:4	approaching	ascertain	327:15 347:7
386:18	327:10	372:4	321:25	assumption
answer	337:7	appropriate	aside	252:2
248:15	appellate	257:25	350:6	assurances
274:12	287:5	313:15	asked	254:20,23
321:3 324:1	applicant	326:11,12	249:6 251:24	assured
327:1	256:19	326:16	266:5	264:7 301:14
354:19	application	approved	270:14	Atlanta
399:7	255:11	257:8 278:7	298:18	363:2
answered	334:15	approves	301:12	ATM
397:3	388:15,16	315:3	311:25	334:7
answers	390:11	approxima...	339:3 340:3	attached
391:6	applications	372:4 394:15	352:4 373:2	248:13
anticipate	256:17,21	395:6	382:16	402:21
249:15,23	257:1,2,15	April	396:23	attempt
anum	257:18	247:10,21	397:3	308:19
384:23	262:10	248:7,8	asking	attempting
386:24	291:7 298:9	364:8	253:14	255:24 259:4
anybody	298:11,12	391:22	271:12	261:17
250:16 265:8	298:14,17	392:1,2	299:15,17	293:1
303:23	298:19	402:3 403:6	301:7	333:18
350:4 354:3	368:22	arbitrary	319:19	attended
355:21	374:19,20	257:3	327:10	299:3
366:14	applied	arguably	376:5	attending
376:21	383:23 384:4	279:13	asks	338:11
378:23	applies	argue	356:22	



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attention	391:1,23	285:7,19	336:1,5	258:21 263:2
289:22	392:2	291:23,25	337:10	263:7 285:3
attorney	Austin	292:2,9,13	344:3	barrier
254:19,24	265:7 273:16	293:14	346:18	351:9
255:6	authority	300:22	361:14,16	barriers
258:21	267:25 268:1	313:5	361:17	255:5 256:12
262:4,13,14	271:21	316:13	365:11	256:15
263:3,9,22	283:4,6	317:14	370:6 374:2	base
265:3,11	284:16	339:16	378:23	282:6
266:8,11,16	300:10,14	360:9	380:2 383:2	based
267:5 268:1	authorized	365:12	387:9,12,23	254:20 271:6
268:9	257:3	371:23	388:1,5,15	275:19,20
269:19,20	automatic...	372:3	388:16,20	291:15
269:21	372:8 394:24	378:11,13	394:23	312:5
270:17	available	378:18,24	396:3	313:12
271:17,22	248:21	379:7,13,24	398:12	319:1,17
272:4,8,25	271:25	379:25	ballots	336:9 343:1
273:5,6,13	326:24	380:19,23	257:21 262:9	347:11
273:22	335:7	381:15	265:9	361:13
274:3,10,23	340:17	382:17,25	334:22	365:6
282:24	359:6	383:4	335:4,6,8	366:19
283:9,10,21	393:16	390:13	335:17,21	376:6 377:5
283:23,24	394:3	393:22	335:22	377:11
284:8,14,20	average	background	336:6,7	387:22
285:7	377:13	281:21	337:4	397:2
291:11	avoid	363:10	361:16	basically
292:25	388:5	bad	365:3	274:1 309:10
294:10	aware	264:20	370:13,15	309:10
297:17	280:24 281:3	284:23	370:24	310:13,19
299:6	281:4	285:3 291:6	371:8,16	311:24
300:10	287:19	312:18	372:11,21	318:5 329:1
301:8,21	299:5,7,10	baffled	373:3,6	364:6 397:5
390:7	311:4	284:17,19	380:25	399:22
attorneys	312:19,21	balance	381:4,5	basis
255:21	321:7	305:23 382:4	388:12,13	337:7 354:7
275:11	351:22	382:6,7	393:15	354:17
279:24	397:7,12,13	384:14	394:5,17	376:9
280:10	A&M	ball	395:21	385:11
334:17,24	275:7	329:18	396:9	386:18
403:1	B	Ballard	397:15	396:7
attorney's	back	275:8,9,14	398:5,24	bearing
274:7 298:18	252:24	275:15	399:2,3,5	351:19
298:20,21	253:15	ballot	bang	becoming
audience	269:15	261:20,23	356:23	255:5
340:2	271:25	299:7,8	bank	began
August	272:2,13	303:2 315:9	346:25 347:7	275:8
270:25 365:1	283:19	335:1,10,13	347:20	beginning
367:8,13		335:15	barely	272:15



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274:22	402:9	328:4 330:8	331:15	263:16
391:14	bet	339:16	343:25	264:22
beholden	313:19	340:23	345:7	274:13
300:8	better	341:12	360:16,17	277:15
beings	266:15	343:3,14,17	blacks	282:8,9
324:20	275:15	344:15	294:18	285:16,18
believe	280:1	347:25	328:16	286:12
249:5 252:7	281:18	349:23	360:11,13	289:8
253:21	289:11	355:10,11	blame	290:13,14
266:25	290:20	357:24	284:20	292:21
267:4	320:9	358:12,25	blaming	293:25
269:23	321:15,24	359:1 361:6	268:1	294:6,9,14
280:18	323:3	363:23	blanket	294:22
284:11	396:10	365:18	337:14	337:17
285:19	Betty	382:18,22	Bled	375:21
288:3,22	353:16	382:22,25	262:15	books
292:17	beyond	383:4 389:4	Bledsoe	329:20,21
308:5	285:14	389:5	262:2,3,3,14	born
309:25	300:11	390:20	285:19	353:24,25
314:7	big	391:19,19	294:7	bothering
318:22	319:22,24,24	bills	board	287:15
325:24	320:4 385:3	261:4	260:17	bothers
333:16	bill	binding	270:24	294:2
340:10	248:3 249:8	367:17	362:4 372:8	bottom
352:13	250:18	birth	body	308:22
353:24	254:6,11,13	333:23	332:11	box
362:9,12	258:22	338:25	373:18	261:20,23
366:17	260:15	339:4 352:4	Bohac	303:2
391:3	264:8	352:19,19	362:17	337:10
392:21	267:15,16	352:20,22	373:14,15	boxes
believed	272:1	352:23,25	377:18	261:14
255:10 363:3	275:17	353:2,7	397:20,21	Brennan
believes	276:19	354:8,9,10	bond	280:21 310:2
250:16	277:4 279:5	bit	259:20,25	311:11
bench	279:6 288:8	287:3,7,22	260:10	Brennan's
367:9	289:15,25	293:13	262:23	310:1
beneath	290:7	308:15	266:21	brief
333:22	291:18	342:4,8	270:1,9,9	328:8 389:15
beneficial	292:17	363:11	270:21	bring
284:17	295:10	377:24	300:6	277:4,4
benefit	296:17,18	383:7 388:7	bonds	337:2
350:7	297:6	black	266:21	338:25
bent	302:21	255:3,9	269:21,22	366:4
304:10	304:12	260:11,12	270:8	bringing
Bessie	313:6,6,7,8	260:15	272:22,23	369:4 373:18
351:22	313:9,10,11	298:25	278:23	broken
best	326:10	299:13	Bonnen	290:12
308:2 311:21	327:21,25	303:1,9,25	261:24	brought



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278:20	305:10	338:25	Carter/Ford	370:5,13,16
326:14	Burman	cancel	382:5 384:13	370:24
352:4,6,8	249:3	366:25	case	371:5,9
357:13	buses	cancelled	253:10 258:7	372:21,21
brown	385:24	366:21	268:2,7	373:4 374:3
252:22	Bush	candidates	274:22	379:23
299:13	279:14	287:11	280:6 287:3	380:1
363:12	293:11	candidly	291:21	381:22,24
389:13	392:9	284:17	299:16,25	383:3
browns	business	capacity	319:7	394:11,12
294:18	400:24,25	324:21	326:10	395:20
Brown's		card	351:22	399:3 400:4
353:16	C	325:7 328:6	352:13	casting
bubbles	calculate	339:1,17	358:15	297:4 334:22
293:24	312:8	343:8 347:2	361:20	361:14
bucket	call	347:4,7	365:23	casual
386:15 387:4	265:17,20	350:12,24	374:7,25,25	383:10
387:5	266:2,15	352:9	376:17	catch
budget	273:17,22	355:21	379:12	292:8
276:17	274:3 292:3	356:10	380:22	category
building	299:17	357:1,21	388:2	389:20
301:20	330:6	358:2,7,7	cases	cause
built	337:13	393:7,13	279:25	287:20 292:4
260:21	380:18	cards	306:18	346:23
278:23,23	called	262:20,21,22	331:12	center
278:24	260:22	264:3,9	333:2	255:7,14
385:10	265:15,21	267:1	367:18	280:21
bunch	266:1	276:12	378:14	297:25
321:21	270:24	305:7 334:7	387:24	304:17
burden	273:6	337:18	397:12	311:11
296:22 305:1	330:13	350:13	cash	313:12
305:12	338:10	care	347:9,10,13	centers
333:6 334:2	339:3	321:18	cashes	386:1 400:16
336:7	calls	324:14	347:22	Centerville
337:12	248:2 266:4	327:6	cashing	393:12
350:16,18	266:6	cared	347:19	certain
352:16	273:18	259:14	cast	284:13
366:8	298:7 304:6	carefully	257:21	321:19
367:21	356:22	332:12	259:25	323:2
376:21	358:12	carry	295:12	324:22
390:12	363:21	326:22	335:1,13	332:1
burdens	Campaign	cars	339:8 343:2	certainly
296:24	255:7,13	334:6	344:3 365:2	250:20 251:6
332:20	campus	Carter	365:10	275:1
burdensome	255:4 258:5	367:10	367:2	276:22
335:12	276:23	Carter/Baker	368:11,12	281:17
Bureau	282:1	382:5 384:13	368:18	282:2
296:20 305:6	298:25	386:8	369:17	305:11



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330:17	295:2, 4	337:12	254:2, 3, 7, 9	citizen
339:20, 25	296:6, 9, 13	390:24	254:9	346:4
343:20	302:3 304:1	champion	274:14	citizens
358:7	304:5, 14, 18	289:9	304:2	297:14, 14
381:22	308:13, 14	chance	cheat	301:8 328:2
394:6	310:8	288:20 302:4	261:19, 19	328:23
certificate	314:12	change	320:17	332:11, 25
333:23	316:19	280:25 281:1	cheating	334:5 337:3
338:25	317:3, 7, 9	281:4, 5	293:9	346:6 348:5
339:4	317:14	295:16, 18	check	380:9
342:13, 15	325:15	295:25	347:8, 8, 10	citizenship
342:16, 18	329:24	316:8, 9, 11	347:19, 22	379:21
352:4, 23, 25	330:3, 5, 9	341:23	388:12, 17	city
353:2 354:8	330:16, 20	343:4, 15	checks	262:8 270:23
354:10, 10	330:22, 25	354:22	347:12, 14	271:2 272:2
402:1, 11	343:11, 22	355:5 356:4	Chief	272:4 277:6
certificates	344:8, 10	374:11, 13	296:1	277:8
352:19, 21, 22	345:17	changed	child	279:10
353:8	346:19	268:22	333:19	399:14
Certified	349:11, 18	295:20	children	civil
402:5 403:5	353:12	changes	279:23 328:4	259:19 285:8
certify	354:16, 25	256:11	choice	294:15
402:6, 14, 25	355:5, 9, 19	257:12	279:16	civilized
cetera	356:6, 11, 18	277:18	choke	295:5, 6
341:3 350:15	356:24	281:16	289:19, 19	claim
352:20	357:12	307:10	choose	263:22
chair	358:1, 2, 6	341:25	279:6 368:18	270:13
248:1 304:5	358:16, 18	390:4	392:16, 17	367:25
330:5	359:4, 9	402:21, 21	chose	368:1
363:20	362:15	changing	368:19 372:1	claimed
393:1	363:17, 19	374:21, 22, 22	379:25	264:18
chairman	363:20	character	Chronicle	267:14
248:1, 4	369:23	299:24	298:15	claims
249:3, 10	372:16, 19	characterize	Chuck	267:10, 13
251:13, 16	373:14	379:15	275:8, 9, 13	311:9
252:5, 12, 14	377:20	charge	275:14	clarifica...
252:15, 16	389:13	273:1, 2	cigarettes	330:10
253:2, 4, 7	391:17	charged	333:13	343:19
253:20	393:4 395:3	346:2	circulated	361:12
254:5, 8	396:13	charges	249:11	clarify
277:16	397:18	264:4 283:12	circumsta...	248:5 263:20
282:7	399:17	290:24, 24	352:18 353:6	273:7
285:11, 25	400:6 401:6	293:6	361:23	300:18
286:12	challenge	301:23	cite	359:19
287:8	284:18, 19	charging	312:23	361:20
288:18, 21	355:19, 25	293:10	cited	class
290:6, 14	356:6 384:4	Charleston	287:7	258:23
294:25	challenges	248:2 253:25		276:10



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291:25	coding	383:4 384:3	354:3 402:2	365:4
292:10	310:19	comes	committees	370:13
classes	colleague	253:10 330:9	252:22	completely
342:20,21	306:2	comfort	common	277:17
classific...	colleagues	333:19	287:20	completion
310:20	307:19 308:4	343:24	common-sense	402:17,24
classified	collect	344:4,5	308:11	comply
315:5	393:23	comforted	communities	335:24
clear	college	279:20	324:17	358:13
258:11	281:20,20,23	coming	334:20	359:5
268:16	282:2	321:24 330:3	336:16,17	376:21
273:11	291:24	343:22	community	compound
340:1	314:15	373:19	289:1,2,4	395:2
391:17	338:4	375:16	301:5	concentra...
396:15	colloquy	388:23	324:10	307:14
397:5	383:10	comment	company	concern
clearly	combination	252:15,21	330:13	281:19,22
249:13,16	381:25 382:3	282:11,13	compare	343:3
251:23	combine	282:18	316:1 369:6	344:12,14
252:1 258:7	291:8	285:4 295:5	388:14	344:17,19
384:9	come	325:20	389:21,22	344:25
clerk	254:10 267:5	353:15	compared	345:9,12
362:4	267:8	commented	306:21	346:8,11,13
Clinton	273:20	305:9	309:25	concerned
365:19 392:5	289:23,24	comments	328:20	256:4 259:11
392:8,12	292:13	251:13 263:9	336:16,19	260:1
Clinton's	297:18,24	263:20	368:23	267:10
390:17	297:25	302:23	369:9	278:4
clock	301:17	375:23	compares	279:13
253:22	303:18,24	commissio...	309:21	302:25
308:13	317:16	290:25	comparing	303:1,4,23
close	319:5 326:1	committed	310:5 314:24	319:15
286:18	328:4	290:20	315:20,22	322:25
327:12	329:20	committee	323:10	342:2
333:7,8	330:19	247:9 248:5	comparison	concerns
353:11	347:25	248:6,7,15	314:23	295:10
369:19,20	354:18	249:3,6	323:12	345:19,23
closed	360:19,25	250:2,21,23	compelling	349:20,23
291:1,5	363:9	250:25	287:12	351:3,13
339:6	367:24	251:6	373:16	conclude
clothe	374:12	252:18	375:19	249:17
333:25	378:11,13	253:9	complains	310:22
clue	378:18,23	259:10	253:23	311:8
324:16	379:7,13,24	286:1	complaint	concluded
coaches	379:24	288:20	290:24	255:14 305:2
264:19	380:19,23	304:19	complaints	concluding
coaching	381:15	317:18	255:16	308:22
264:20	382:17,25	353:12	301:13	conclusion



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248:21	259:16	304:21 318:1	258:3	402:19, 25
308:22	conservative	contact	copies	count
309:5 311:1	304:8	268:4 274:7	298:9, 14	330:21
311:2	consider	333:7	301:17, 19	335:10
313:23	309:22	contacted	copy	336:5
315:14, 25	324:20	254:24 255:7	253:8 314:13	370:17, 17
condition	336:10	265:4	339:4 352:4	371:22
303:9	373:23	contains	402:11	372:11
conditioning	381:6	339:18	core	374:25
260:23	considera...	402:21	366:17, 18	394:11, 13
303:10	286:7, 9	contend	correct	394:18, 24
conduct	302:8 327:3	390:22	252:7 265:12	395:16
269:6	340:24	contention	266:24	396:9
conference	361:19, 24	322:12 368:4	267:25	counted
293:11	362:8 381:9	context	269:24	335:15, 19
confidence	397:19	274:5 294:8	284:1	339:9
275:21	considera...	333:3, 5, 21	304:12	365:11
278:10	348:9	334:2, 5	309:5	371:17, 19
confident	considered	363:9, 11	312:15	371:20, 25
280:7	308:1 361:15	continue	315:11, 23	372:24
confused	381:21	280:13	370:10, 11	373:1, 5, 7
261:25 272:7	considering	continues	372:2 378:9	378:10
300:4	254:14	345:11	378:12	380:4, 5
confusion	258:13	continuing	382:19	381:4 384:9
276:15	337:8	255:22	389:5, 9	394:22
285:21	consistently	contradicts	393:25	395:5, 18, 24
Congress	312:21	287:7	396:19	counties
305:17	consolidate	control	398:25	275:23 289:5
Congressi...	276:7	312:3, 4	corrected	289:20
331:14	constant	controlled	280:17 311:2	291:14
Congressw...	259:9	311:21	315:8	307:11, 14
274:17	constantly	controller	340:20	307:16, 17
connected	276:2 297:23	308:3	342:9 343:7	334:20
363:14	constituents	controlling	correctly	349:14, 14
connecting	350:17, 18, 25	310:6	378:4	385:18
274:18	Constitution	controls	corresponds	393:24
consensus	329:13, 14	307:24 388:6	398:4	400:10, 11
252:19	332:18	controversy	corrupted	400:15, 25
consent	Constitut...	311:9	320:16	counting
257:6, 16	351:5 363:16	convenience	cost	372:5
258:2	365:22	249:20 250:2	280:9, 12, 13	country
268:21	383:14, 19	conversation	327:18	250:5 277:20
269:1, 12	383:23	262:16 294:5	387:3	331:17
283:14	construction	324:25	costly	353:11
consequence	259:20	convinced	323:18	359:22
279:21	260:10, 20	288:11, 14	counsel	366:16
consequences	260:23	coordinate	255:9 331:4	counts
	construed		364:10	315:3 372:8



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394:18	352:11	367:10,13	CSR	date
county	362:4	367:17	403:9,9	249:6 339:10
248:2 253:7	385:14,15	383:22	cumbersome	341:2 345:4
253:12,14	385:16	392:18,19	323:18	402:20
254:4,10,17	400:12,16	392:20	current	David
255:14,24	400:21,25	395:25	281:1 295:18	304:4,6,16
256:3,8,12	401:4	courthouse	312:6	316:25
256:25	County's	352:6	331:25	317:1
257:2,8,11	256:4	courts	337:3	318:10,17
257:14,17	couple	278:1	342:10,13	day
257:19,23	260:16	Court's	343:13,16	257:21
258:3,7,20	288:20	304:24 329:7	346:12	262:20
259:9,18,18	295:3	co-author	355:6	266:13,14
260:8 261:6	297:11	306:2	364:17	269:8,12
261:18,21	300:7	co-sign	365:20	280:5
262:12,21	329:17	347:12,16	387:25	288:21
263:11,19	366:10	Craig	388:22	298:13,15
263:21	375:21	275:10	390:5	301:2 326:2
264:2,12,14	course	Crawford	currently	332:2 339:9
269:1,3,17	291:24 326:9	304:24	295:15,22	349:17
276:1,4,16	328:17	created	327:25	362:20
276:16,22	337:11	325:25	338:5 342:4	368:16
277:2,3,6,8	339:20	357:17	354:17	379:23
277:12	365:10,21	creates	355:20	403:5
278:16,18	383:21	342:20,20	364:18	days
278:18,19	385:21	creating	370:3	257:18 263:1
278:20,24	387:18	276:14	cut	315:4
281:8 282:3	court	331:12	286:23	335:11
282:3	257:9 259:8	criminal	cuts	365:12
284:11	271:11,12	264:3,8	286:20,21	371:24
285:7	271:15,15	269:6,10	cutting	391:3,5
289:17	271:23	283:5,8,12	294:13	397:24
290:25,25	275:13,13	283:13,15		398:1,5,18
291:8,14	278:8	285:10	D	399:20,22
293:2,6	279:17,24	290:24,24	DA	400:1
297:18	280:4,6	291:12	253:14,14	402:19,19
298:16	281:14	292:25	264:12,14	deal
299:4	282:19	293:1,6	dad's	249:1 253:10
300:18,19	291:1 296:4	297:22	353:17	280:2
301:7 303:6	296:9,9,11	300:15,17	Dallas	319:22,24
303:7,19,21	296:14	300:19	253:7,12,13	319:24
303:21	314:3	301:13,22	261:11	320:4 327:5
307:7	324:15	301:23	damage	354:20
335:10,14	328:25	303:12	280:20	dealing
335:20	333:4,20	criticisms	data	265:5 367:7
345:11,13	348:20	351:15,17	307:7,20	deals
351:23	360:18,25	Crown	336:13	261:12 285:9
352:3,5,6	365:22	335:14	376:13	dealt



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286:17	303:18,24	deny	403:10	determines
354:6 384:4	330:7 331:4	293:3 337:9	depressed	372:9
death	359:19	344:24	334:11	deterred
334:6	361:5	denying	deprive	259:4
debate	defer	272:21	379:20	develop
311:6 329:5	252:25	344:20	deprived	257:23
decade	definitely	department	351:6 379:22	385:20
364:14	277:1 339:12	249:9 253:10	deputy	developing
decades	342:9	254:19	256:15,17,19	331:19
331:10	degree	255:19	256:22	devote
December	269:9,13	256:2,6,24	257:25	287:12
257:24	278:10	257:7	258:5	Dewayne
decide	Delaware	259:17	describe	248:2 253:25
279:4	307:19	265:2,4,5	350:15 400:7	254:2,3,7,9
decided	308:25	267:12,14	described	254:9
267:18 274:2	delivery	267:18,20	344:4 369:15	differ
378:13	261:13 277:7	268:3,4,6	designed	384:7
decides	339:6	268:15,16	335:4	difference
327:11	delve	269:8,11	desire	343:13
decision	324:19	270:2,4,12	250:25	383:19
274:6 282:12	demand	271:1,5	285:17	394:16
282:19	266:13	274:18,25	308:6	395:17,20
283:3	democracy	276:25	desperately	395:23
304:24	332:6,9	278:2,8,11	310:4	differences
329:8	334:9	279:8,14,16	destroy	322:20
339:11	Democrat	280:8,12,20	333:10,12	different
342:25	284:11	283:7,14	destroyed	277:14
decisions	286:25	285:9	352:5	286:13
295:11 344:2	390:15	300:13	detailed	293:17
354:23	Democratic	310:2 325:6	254:21	297:22
declined	249:7 250:11	352:10	details	333:3,4
272:22,22	250:15	365:16,18	269:14	341:17
decorum	284:6	389:17	detect	342:19,20
295:7,7	287:10,12	390:17	367:6	342:21
decreases	369:20	391:14	deter	345:1
382:1	390:15	392:10	367:6	346:11
decree	Democrats	departmental	determina...	350:17
257:7 268:21	251:9,18,22	255:21	341:7 343:9	353:4 354:5
269:1,12,13	251:23	Departments	determine	357:11
283:15	307:17	392:5	289:25 309:8	384:10
deeply	demonstrate	depends	315:14,17	differently
254:15	337:12	312:14 319:6	334:18	345:1 353:21
defend	demonstrated	380:21	370:16	353:22
294:4	334:3 335:3	deponent	371:21	difficult
defending	denied	402:15,16,23	determined	257:4 259:5
331:13	259:6 263:11	deposition	332:16 350:1	298:4
defense	297:14,15	253:6,8,11	394:18	311:17,19
	298:1,5	402:17,24		325:3,4,5,5



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349:17	346:1 353:9	disparity	documenta...	349:14
352:16	discrimin...	322:13	305:20	352:3
357:5	254:16,22	dispensed	316:14	Dr
358:13	255:11	383:13	326:13,16	316:19 374:7
367:6 383:3	256:5	disqualify	328:7	374:9
difficulties	discuss	338:23	358:23	dramatically
357:16	263:3 364:6	disrespec...	documents	346:11
difficulty	discussed	325:1	256:21	350:17
334:22	271:20	dissenting	275:24	drive
346:10	365:21	396:4	296:21	328:3 352:7
358:21	discussing	distance	305:11	374:17
digits	263:6 333:4	336:14	308:16	driver's
314:1	discussion	distinction	328:8	261:11 314:2
direction	250:21 251:6	361:15	339:14,15	327:18,18
276:22 277:1	294:15	distinguish	340:17	327:19
312:22,24	364:12	383:17	343:5,16	334:7
376:10	366:1	distort	350:13,19	336:19
director	discussions	334:4	350:23	338:13,22
363:21 364:4	365:7	distribute	351:1 352:9	338:24
364:7	disenfran...	250:7	357:21,23	364:19,21
disagree	275:25	district	370:9	drives
279:18 342:8	294:18,19	259:21 260:6	393:14	256:23
384:11	306:1	260:7	doing	dropped
disappear	380:16	270:22	288:11	251:15
311:3 312:16	disenfran...	278:14	314:23	drops
315:12	258:24	279:25	315:22	395:19
disappears	259:24	292:25	332:12	drug
310:21	260:9 261:8	296:9	342:8 348:2	303:19
discourage	264:24	298:20,21	356:1	due
292:5,6,18	269:16	300:25	387:18	278:19
332:8	291:9	326:25	DOJ	282:23
discouraged	292:13	367:10	365:16 393:3	293:25
287:14	301:25	392:19,20	dollars	371:13
discretion	308:10	divide	275:18 279:2	D.C
286:2 290:2	365:5	250:6 251:11	279:3	255:8 271:4
290:2	379:16	divided	280:10	278:9
291:20,22	380:3,24	248:20	293:10,16	279:17
341:5 355:2	384:10	251:17	300:14	319:1 324:6
discretio...	disenfran...	division	303:22	392:17
343:9	345:10 375:8	363:22 364:3	384:22	
discriminate	380:19	DMV	door	E
259:2	381:6,18,21	338:16,21	301:15	Eagleton
discrimin...	382:2	339:7	double	310:17,18,22
275:7 301:9	disenfran...	document	395:15,16	314:14
302:17	379:19	339:21 344:1	doubt	earlier
discrimin...	382:14	357:19	287:8 342:6	262:1 283:20
258:20	dismissive	359:6	DPS	338:1
345:14	302:14		348:15,16	362:23



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369:15	305:2 306:2	elderly	368:12,16	399:23,24
373:10,11	306:18	324:5 337:2	368:18	399:25
375:22	307:3,13,22	369:3	370:20	400:12,20
377:9 388:9	308:7,23	elect	371:24	400:21
early	309:4,12,14	321:18,18	372:18,20	402:2
252:24 276:3	309:18	electing	373:11	electoral
276:5	310:21	321:14	374:15,16	305:4 308:3
278:16	315:16	election	377:1 378:1	321:5
338:10,12	316:5,8	254:14 255:2	378:21,21	332:10
339:5	322:3,4	256:8,25	378:22	electorate
367:20	323:4 326:6	257:21,22	379:23	332:13
397:22	328:11	259:23,23	381:3	elevate
399:21,22	359:25	260:5,5,14	382:17	363:3
400:2,4,7	360:18	260:17,25	385:8	eligible
400:15	378:22	262:8,12,23	397:11	313:24
easily	390:12	264:8	400:13,22	331:20
326:8	391:1,20	266:21,21	401:1	336:2
easy	398:24	267:3	elections	380:14
261:19,19	effectively	269:16,21	247:9 259:14	eliminate
324:11,12	337:9	269:24,25	259:16	276:2,3
324:17	effects	270:3,5,7,9	260:2 261:3	346:12
377:25	306:8	270:11,21	261:8	eliminating
eat	efficient	271:6	268:22	331:15
292:10	320:16	275:22	270:23	333:12
economic	effort	276:24	271:2 272:3	345:19
281:21 287:9	294:17,19	283:1	277:3 279:7	346:13
288:2 334:1	301:24	289:23	279:10	Elkins
educate	320:4 363:5	290:8,17	291:1,3,7	280:1
275:22	efforts	303:11,19	303:5,5,24	Ellis
331:17	331:8,10	303:19	307:21,23	262:2,18
361:2	384:22	306:4	308:12	263:13
362:13	eight	320:15	346:2 362:6	else's
384:25	251:1 286:23	321:20	362:11,13	303:14
educated	294:13	326:2 329:3	363:21	366:21
307:15 323:3	329:18	331:17,19	364:3,7,25	embedded
323:7 326:7	either	331:22	365:1	357:22
education	258:17	332:2	366:12,23	emotion
331:21	277:25	334:17,18	371:6 375:6	375:15
359:20	278:8	335:11	376:14	emphasize
379:10	299:13	341:5,8	377:17	295:9,14
384:21	311:16	343:9 350:6	379:6	employed
385:5 387:5	313:25	358:14	382:10	403:1
educational	343:25	359:16	383:8 384:2	employee
260:20,23	347:8	361:23	385:10,17	292:1 318:19
330:7 331:5	364:20	362:2,3,3,4	393:23	364:21
Edwards	369:21	362:4 364:9	396:21,21	employer
259:12	379:24	365:13	396:24	292:2
effect	391:13	367:4 368:8	397:10	empower



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331:19 empowered 276:17 enacted 364:17 396:18 398:3,4 enactment 258:14 enchanted 349:19 encountered 255:4 334:22 encourage 332:10 endorsement 337:14 enforced 367:8 enforcement 283:4,11 397:8,11 engaged 311:25 313:21 enjoined 388:8,10 390:25 enrolled 275:9 ensure 308:12 320:18 331:20 ensuring 329:3 enters 345:5 enthusiasm 307:25 entire 332:13 353:1 entitled 263:25 264:1 311:5 entity 350:14	envelopes 350:14 equal 304:9 325:25 366:22 equally 251:11,17 325:24 345:2,22 366:23 373:16 equation 327:6 eradicate 258:10 265:1 erected 255:23 256:13 Erickson 311:5 erosion 259:10 errors 310:19,20 especially 255:2 352:14 352:17 374:16 377:11 379:21 400:22 Esquire 403:10 et 341:2 350:15 352:19 ethnicity 322:21 evaluate 332:12 event 287:2 events 258:4 eventually 263:9 even-handed	305:3 everybody 250:19 272:10 275:14 299:11,12 325:24,25 327:5 328:22 365:15 366:15 385:9 evidence 277:11,14 297:16 308:9 312:19,21 339:15 350:9,20 376:20 395:22 exact 398:2 exactly 265:13 325:19 384:20 exaggerated 282:4 examined 307:22 example 306:9 333:10 335:12 344:21 357:4 382:13,14 387:4 examples 258:16 321:21 336:13 excellent 357:15 exception 299:11 exception... 336:5	excessively 335:11 exchange 248:8 excuse 287:1 368:15 368:17 381:10,14 382:16 383:1 384:14 387:8 exercise 286:2 329:2 331:21 348:13,18 348:21 382:9,11 exercising 255:25 349:7 382:13 exhausted 285:23 exist 347:3 existed 376:4 377:3 existing 341:23,25 exists 350:21 expect 293:24 expectations 329:2 expected 251:14 expenses 319:5 experience 291:15 301:3 324:9 332:6 338:9 346:4 346:5 364:7 364:13,14 365:24 366:1 382:21	384:6 387:11,12 387:16,22 389:10,22 390:9 experienced 395:9,12 experiences 336:9 347:11 experiment 373:17 expert 250:3,14 251:4 287:7 313:7 expertise 322:3 expiration 339:10 341:2 345:4 403:10 expired 285:13 352:6 357:25 358:3 364:20 Explain 271:14 explaining 338:19 explicitly 337:11 exploring 252:3 express 317:25 expressed 249:11,12 304:20 396:1 expressing 346:8 349:21 extension 339:21 extent 249:8 250:21 253:23 285:14,15
--	---	--	---	---



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295:17	277:19	311:4	310:14	300:15
308:19	279:15	330:15	339:22	339:16
334:19	281:6 286:7	385:23	357:9	filed
337:22	289:1,1	family	364:22	262:13
338:4 340:2	292:14	333:25	367:10	275:11
340:12	297:19	353:15,18	381:1,3	278:13
341:20,21	298:16,18	far	388:9	279:23
342:3	299:14	286:19	FedEx	290:23
350:10	301:25	315:15	297:20 339:5	390:23
366:24	309:8	317:14	339:6	filing
400:7	322:24	340:25	feed	280:13
extra	323:2	349:4	333:25	fill
328:12 335:9	330:13	381:18	feel	324:24
399:19	351:2,4	384:5	274:14,15	355:20
extrapolate	367:24	390:11	280:7	finally
372:13	368:19	397:3,7	301:10	353:2 398:21
395:10,14	370:12	far-ranging	319:25,25	financially
extreme	376:8	257:9	320:3,15	403:3
316:1	379:19,23	fascinating	347:24	find
	380:10	367:19	349:1	263:6 268:15
F	381:4	fast	feeling	268:24,25
face	383:13	271:10,10	320:6,7,20	283:5
304:25	388:2	fathom	fees	291:11
310:14	389:19	325:4	280:11	293:12
366:18	facts	fault	felony	298:4
faced	294:1 368:6	251:23 252:1	290:9,22	300:15
301:22	fail	favor	388:21,24	301:18
354:17	333:7	299:18,18	389:1	310:4 312:3
face-to-face	failed	304:11	397:15	313:19
274:9	368:1	322:10	398:12,13	317:1
facial	failure	348:2	398:14,16	326:18
383:16,19	257:4 368:2	369:15	398:16	328:14
384:3	fair	382:18,22	felt	347:15
390:23	251:11,12	389:4	301:1,1,4	353:2
facilitating	252:17	February	female	367:18
256:22	278:5	263:4	360:11,13	373:15
facilities	325:17,22	federal	369:4	388:21
336:14,14	329:3	256:25 257:9	females	finding
fact	375:23,24	262:25	360:17	312:15
249:14	380:12	271:11,12	fight	314:17
258:12	393:9	271:14,23	280:1	findings
259:19	fairly	278:1,8	figure	268:17 307:1
260:9 265:6	250:7 304:8	280:14	347:23	311:3 315:7
265:7 269:2	fall	287:5,16,17	381:17	315:12
269:8	256:1	288:12	398:7,9,10	fine
272:17	familiar	293:16	file	263:19 331:6
273:20	283:21 287:1	296:7	262:14	finger
274:23	287:2,22,23	299:16	279:23	258:21 263:2



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263:7 285:3 fingers 286:21,22 294:13 finish 251:20,21 300:21 finite 395:1 fire 291:2 352:5 364:9 Firm 403:12 first 260:24,24 265:4 275:10 286:23 293:9 295:4 295:10 301:12 308:9 317:21 326:5 327:16 331:13 347:21 352:15 361:11 363:9 386:14 first-time 305:18 fit 291:7 five 286:20 292:3 292:4 298:12 301:16,18 325:8 353:10 398:19 400:16 flatly 272:21 flat-out	264:2 flesh 383:6 Flew 319:3 flight 252:7 flips 372:10 floor 249:16 Florida 329:16 372:7 393:6 394:11 395:15,19 396:2 Florida's 394:20 focus 345:21 focusing 359:17 364:12 folks 262:5,11 288:1 289:2 294:20 300:25 301:9,10 302:24 323:16,17 324:17 327:9 345:24 353:23,23 374:14,21 379:2 384:9 386:10,15 following 365:12 367:9 371:24 402:7 follow-up 391:18 football 260:22 261:4 261:5	264:19 forced 369:19 forefront 333:1 Foreman 402:5 403:9 forget 380:1 form 313:15 316:12 323:11 330:11 358:11 364:15 374:13 380:6 393:20 format 356:4 former 253:6 352:8 363:2 forms 277:10 295:21 324:22 326:13 328:13 332:1 336:24 337:2 341:9 358:5 364:18 374:11 392:14 Fort 299:16 351:25 353:18 357:14 forth 272:14 297:7 fortunately 364:10 forum 253:2	forward 268:13 271:10,11 275:1 283:23 329:5 367:24 384:3 Foster 351:23 fought 275:12 found 262:12 264:3 278:13 283:8 293:9 298:19,20 298:21 300:19 301:20 306:5,8,10 306:18 308:6 309:10,12 309:14 310:21,24 312:14 315:6,8 333:2,10 353:4 374:19 foundation 304:7,18,22 306:1,9,10 317:23 318:2,6,8 318:15,16 318:19,20 318:21 319:1,6 330:12 366:16 Foundation's 318:3 four 269:23 307:21,23 314:1	326:10 349:15,16 367:22 397:19 400:17 fourth 248:10 franchise 382:4,9,13 384:14,15 Frank 294:10 frankly 367:17 fraud 253:12,14,18 258:16,17 259:11 299:7,8 366:11,22 367:3,5,6,8 367:16 387:11,13 387:17,23 388:1,5,20 388:23,24 388:24,25 389:2 397:4 fraudulent 259:16,23 260:5,13 Frazier 249:8 313:6 343:14,17 382:18,25 383:4 FRCP 402:14 free 305:7,8 323:21 325:7 327:22,22 336:15 348:1,7,16 382:11 384:17 387:4
--	--	---	--	--



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freshman	349:9,13	378:1,4,20	369:7,16	347:20
276:10	357:2,7	378:21	374:10	355:2 356:9
friend	359:9	385:11	375:22	385:16
286:12,19,22	363:18,19	397:9	376:3,12,23	389:10
288:18	Gary	399:23,24	377:14	given
friends	334:19	399:25	378:4 380:1	254:20
250:10,12	335:13	400:22	380:17,22	279:15
251:11	gasoline	generally	384:5,17,25	290:3
351:16	293:10	384:19	385:3,8	314:13
front	gathering	387:11	389:10,20	326:15
265:11	296:20	400:1	390:2,13,16	344:25
384:23	305:10	generals	391:21	352:17,18
frustrating	general	283:24	393:7,10	381:8 402:9
288:18	255:6 258:21	general's	395:8,18	gives
full	262:5,13,14	254:20,25	398:14,17	291:20,21
260:18	263:9,12,22	263:4 265:3	399:12,15	342:10
function	266:8,11,16	265:11	400:9,20	344:12,23
350:8	267:6 268:1	269:19,20	Georgians	354:2,5
fund	268:9	269:22	373:21	361:13
330:7 331:5	270:17	272:4,8	Georgia's	giving
359:20	271:22	273:6,22	364:6,13	288:19 343:1
361:5	272:25	282:24	365:17,19	glad
fundamental	273:5,13	283:10	375:9	270:14
337:6 348:8	274:3,7,10	297:17	382:21	301:12
348:13,18	274:21,24	298:19	396:5	382:24
348:20	276:24	300:10	getting	383:5
366:16	282:11,13	301:21	281:10	glimpse
funded	282:16	390:7	287:13	354:5
310:14	283:9,22,24	gentleman	308:21	go
furnish	284:8,14,14	338:1	340:2 349:5	249:24
313:25	284:20	gentlemen	358:21	253:21
further	285:7,13,20	285:11 295:1	378:21	261:15
258:23 311:3	291:11	George	386:14,16	268:7
357:8 376:5	294:10	253:6,6,11	387:4	270:20
402:14,25	299:6 301:8	253:17	girls	272:2,2
403:2	306:19	Georgia	301:21	282:3
Furthermore	308:8	294:24	give	285:14,15
307:15	320:10	359:23,24	253:8 290:2	286:1
future	334:17	360:5,23	293:13	291:10,15
270:22	350:7 362:3	361:25	302:3	291:25
333:13	363:14	362:11	314:20,25	292:8,9,9
337:11	364:10	363:22	315:21	292:10
364:16	368:8,18	364:4,8,14	317:19	293:15
	370:20	365:1,24	340:23	299:22
	372:18,20	366:4 367:4	341:4	301:8
G	373:11	367:10,12	344:14,17	310:12,15
Garrett	374:16	368:4,10,13	344:19	313:22
330:6 331:1	377:17	368:15	345:9 346:1	323:18,21
331:3,3				



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324:12	281:17	277:5	271:1,8	365:2 400:4
325:6,6	283:2	293:16	281:13	Haliburton
326:2,10,17	285:12	310:14	293:22	293:9
326:18,18	286:1,4,6,7	314:8	299:18,19	Hampshire
326:19,25	286:8 288:6	339:22	grew	338:18,20
327:12,17	289:8,13,18	347:8	325:11	hand
328:17	289:18,22	364:21,22	ground	280:7 309:20
331:1	290:3,13	governmental	334:18 338:9	374:9
333:15	291:13	350:14	361:25,25	handed
334:12	292:2,12,19	governmen...	grounds	374:18
337:23	293:13,16	305:5 335:9	337:4	handle
338:16	299:15,23	governor	group	249:12
341:14	299:25	284:2 321:8	279:22 350:5	394:17
342:17,22	302:3,6	321:11	350:10	395:21,24
343:4 345:6	303:6	376:19	359:16	396:2
353:16	313:21	390:16	361:1	hands
354:4	316:16	governs	groups	279:8 308:15
356:12,17	321:15	357:10	287:24 288:8	happen
356:21	324:23	grade	guarantee	268:11
359:25	327:12,12	397:15	252:23 336:1	290:16,16
372:19	328:22	398:13	guess	291:13
381:18	342:17,24	grades	260:15,19	303:7 342:2
383:9	342:24,25	398:14	267:10	392:12
393:21	343:1 346:7	granddaddy	269:18	395:10
goals	348:2	295:17	288:24	happened
332:5	351:12	grandfather	289:8	269:15
goes	353:17	356:2	319:25	302:13
249:8 317:15	355:25	grandmothers	339:23	353:3
333:19	361:6	288:22,24	342:7	388:10
334:10	362:23	grant	381:16	happenings
359:3 362:5	364:6 366:9	358:20	396:23	275:19
374:9	382:8 399:9	gravely	guests	happens
375:25	399:21	333:19	248:13	289:20 327:8
382:14	good	great	guy	352:14
going	284:7 290:19	284:25	270:15 275:8	361:12
251:25	308:9 320:8	293:23	324:14	happy
261:12	324:7,8	300:9 317:5	guys	300:22
262:24	355:16	322:12	272:5 293:14	360:24
263:24	379:9	362:21	355:21	369:21
264:7	382:24	greater	gym	390:1
266:12	384:5 392:1	307:16	285:5,6	hard
272:3,13	gotten	372:10	gymnasium	289:10,10,15
273:22	272:5 281:15	377:4	260:24 303:9	323:18
275:6,15	282:20	Greg		324:11,17
276:5,17	governed	262:23,24	H	328:19
278:12	348:24	265:6,6	half	349:2
279:10	government	266:9 268:9	251:17,18	393:10,17
280:9,11,13	259:24 263:8	270:17	353:20	Harper-Brown



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359:7,8	hearsay	272:5 378:24	honest	293:22
389:14	392:24	high	321:17	hundreds
391:16	Heflin	313:20 336:5	387:16	276:9 292:7
Harris	349:11,13	higher	hope	hurdle
278:23	396:14,15	307:14	351:12 359:3	328:18
Harry	397:17	highly-re...	hopefully	hurdles
253:15	399:17,18	284:6	384:4	255:22
hassles	400:5	Hill	hoping	Hurricane
305:14	held	284:5 286:24	395:7	334:2
hate	268:22	Hispanic	hospital	hurtful
395:7,9	269:21,22	288:25	353:24	282:2
head	270:1,6,11	323:24	hospitals	hurts
280:10 340:2	272:21	324:2 369:7	353:9	287:18
387:7	321:19	377:10	hour	hyper-tec...
399:10	375:7	Hispanics	253:24	257:5
headway	hell	322:11	289:24	hypothetical
277:2	294:21	325:12	292:3 399:3	327:11 381:8
health	help	328:20	hourly	hysteria
250:1 264:18	255:6 258:21	382:12	307:15	375:12
292:22	271:13	historic	hours	
hear	272:11,16	368:25	248:21 251:2	I
311:12	272:18	377:12,13	349:15,16	ID
329:25	275:2,3	historically	400:18,18	254:13
362:23	286:20	255:3,9	400:23,25	258:14,22
382:24	288:1,4,6	history	house	259:3
heard	297:18	277:19	247:8 249:16	275:18
283:12 287:2	305:16,22	353:11	252:18	277:10
293:21	308:11	hit	259:11,12	287:6,21
302:19,22	320:18	349:16	260:15	288:24
350:20	339:3	hold	267:15,16	289:15
361:15	348:11	258:4 262:24	272:1 279:5	291:16
365:14	359:12	271:18	279:6	295:17
366:9,11	363:5	299:22	321:12	296:16,19
367:5 368:7	helped	323:13	328:3,3	302:21
369:4,15	398:8	362:11	343:23	304:25
374:7	helping	holding	351:12	305:6,8,25
375:17	288:8	272:19 300:6	359:1	306:11,15
377:9	Heritage	holdings	Houston	306:20,20
379:19	304:7,18,22	331:16	261:11 263:5	306:23
393:5	306:1,9	home	275:3	307:2,6,9
hearing	307:1	352:19	298:15	307:12,22
248:12	313:12	355:23	403:11	308:5,8,11
249:12,14	317:23	356:1	huge	311:6,17
249:17	318:2,3,6,8	homeless	348:2	312:20
295:7	318:19,25	336:21	human	313:22
351:14	319:6	345:24	324:20	314:5 315:2
hearings	330:12	homes	hundred	315:10
248:7	Hey	277:7 337:3	260:1 280:9	319:15



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322:3,4,10	367:12,14	316:9,13	identifying	389:9
323:19,21	368:1,5,23	317:16	308:16	impacted
324:12	369:2,6,6	323:11,11	identity	334:21
325:7,18	369:13,15	324:22	343:17,24	339:12
326:2,3,5	369:25	326:11	344:15	366:7
326:12	370:2,3,4,5	332:1,2,3,5	347:4,6,15	impediment
327:20,22	371:2,14,23	332:7,17,19	347:24	265:1
327:22	372:23	332:23	349:4	impediments
328:1,5,14	375:9 376:4	334:16,21	354:25	258:10
328:16,20	376:10,16	334:23,25	355:3	impersona...
328:23	377:3 378:8	335:9 336:3	ideological	258:17
329:8	378:18,22	336:8,11,15	304:10	impersonate
333:21	378:25	336:18,22	IDs	321:22
335:13,21	380:2,6,10	336:22,25	287:9 288:23	impersona...
338:13,16	380:12,13	337:2,12,14	363:13	290:13
338:19,20	382:21	337:18,24	385:25	impersona...
339:7,9,20	383:14,23	338:5	386:10,14	397:5
341:1,1,2	384:14	339:17	ill	implement
341:15,16	385:23	340:6,14,17	333:19	275:18
342:11,19	386:1 387:1	340:21	illegal	367:12
342:22,23	387:2,4,9	341:6,10,24	264:5,5	implement...
342:24	387:19,20	342:1 345:2	329:11	307:11
344:21	388:8 390:6	345:3,20	Illinois	311:16
345:24	390:10,14	346:13	352:22	364:25
347:10,13	392:14	348:14	illustrates	implemented
348:1,7,11	393:7,21	349:24	258:8 336:6	256:8 276:20
348:16	396:17	350:3,6,11	358:15	360:14
352:2	398:23,25	350:19,23	imagine	393:11
353:10	399:6,6,7	351:1,5	261:1 262:3	implementing
355:1,2	idea	352:8	303:4	393:10
356:4,10	290:19 326:1	357:19,20	323:17	imply
357:17	348:11	358:24	342:1	272:16
358:4,9,9	355:16	364:19	344:12	importance
358:10,11	381:17	370:9	350:21	331:18
358:17,17	identific...	384:18,20	393:25	important
358:18,19	261:10 281:1	384:21	imitates	249:7 273:12
358:21	295:15,19	385:21	357:19	302:10
360:22	295:21,23	393:11,13	immediately	310:7
361:1 363:3	295:24,25	393:14	326:6 335:7	332:11
363:4,7,13	297:2,5	396:16	impact	333:17
364:7,13,15	305:7,16,19	identified	306:6 307:9	336:10
364:17,22	305:21	256:7	309:9	351:7
364:22,23	306:3 307:3	identify	313:13	358:22
364:23	308:7	253:12	328:22	383:17
365:3,6,10	310:25	258:23	332:12,14	384:1
365:12,17	313:16	259:5 304:8	336:12,23	imposes
365:19,20	314:19	343:15	337:1 362:7	281:16
365:25,25	315:21	368:2,2	376:11	imposing
366:2,2				



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256:20	361:8,21	incumbent	248:11	376:8 390:9
impressed	362:14	369:18	296:14	391:4,6
359:11	383:18	independent	316:5	informative
impression	389:23	260:7 270:22	394:10	336:13
285:14	incapable	278:14	indicates	informed
improve	325:2	279:25	309:17 313:1	334:24 335:1
321:5 359:13	include	397:12	315:16	infrastru...
improved	257:4 310:23	Indiana	indication	279:3 303:14
320:22	382:25	281:5 287:3	309:4 316:8	inherent
improvement	included	287:6	340:19	311:15
272:23	256:12,16	294:23	individual	initial
improving	386:9,25	296:7,16	279:24	275:8 357:9
258:1	includes	297:1 305:6	307:20	initially
inaccurate	259:21	305:10	325:23	253:18
262:15	including	307:7,11	365:11	269:25
367:18	255:22	309:25	366:6	270:1,11
inalienable	257:25	312:25	367:23	274:23
381:23	320:13	315:1	371:2	278:17
inappropri...	331:11	334:14,16	372:22	initiative
278:6	332:2 337:8	338:9,16,17	375:3,4	258:23
inaudible	350:13	339:14	382:8	injunctions
253:15 255:4	inclusive	341:15	individuals	391:23
256:18	332:6 348:24	345:5	279:22	injures
258:6	349:1	349:19	314:20	287:11
261:22	income	350:20	315:21	insofar
267:21	288:9,15	351:18	336:15	296:1 351:17
268:20	inconsistent	357:17	368:2,3	inspector
275:3,10,14	257:16	360:4 362:1	369:5	397:9
275:17	inconveni...	365:23	379:22	instance
276:3,10	296:15,19	389:21	380:3	315:8 358:20
293:24	305:9	Indianapolis	induce	386:7
294:4 301:2	increase	334:19	308:5	instances
304:8,17	296:23	Indiana's	indulged	250:4 313:4
324:11	305:13	304:25 307:9	333:14	334:8 397:3
326:1 331:7	369:8,9	334:23	inequity	Institute
331:14,16	374:21	396:11	251:21	314:14
331:25	376:25	Indiana-like	infer	institution
333:5,20,21	377:4 391:5	315:23	316:15	339:19
334:6,8	increased	indicate	infirmary	institutions
338:14	307:13,16	285:12	380:8	338:3
339:12	309:11,13	302:24	inform	instructions
341:4 345:6	360:21	305:25	379:10	339:2
347:13	369:10,11	314:17,22	information	integrity
348:8	369:12	339:17	254:21	259:14 303:1
349:10	389:1 395:4	340:3	255:21	305:3
353:20	395:5	376:10	297:20	308:12
355:15	increases	395:13	335:23	320:19
359:24	376:16 382:1	indicated	374:22,24	



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325:18	301:19	271:24	jail	287:6,16,17
329:3	investiga...	274:21	398:18	288:12
intent	255:19	isolated	James	290:8
249:11 250:5	268:12	352:13	290:14	291:18
intention	283:11	issue	January	296:7,12
249:17,19	299:6	249:24	391:21	367:11,19
intercede	investiga...	250:15,16	Jason	367:24
271:13,14	255:13 268:7	274:8,16	307:18	388:9
interest	268:21	279:4	Jeffrey	390:24
249:23 308:1	274:24	284:12	307:8 312:25	judges
interested	283:13	308:19	Jenigh	280:5 290:17
313:18	285:10	309:17	330:6 331:3	396:4
349:24	investiga...	340:13	331:3 349:9	judgment
350:9 403:3	255:1	346:21	357:2,7	257:6,16
interesting	investiga...	354:21,22	362:18	258:2
259:7 263:6	297:23 300:7	360:5 361:9	363:19	342:25
266:20	300:11,24	363:13	Jenigh's	393:9
267:11	invisible	366:12	373:16	judgments
270:14	327:7,8	369:21	Jenkins	280:10
287:17	invited	375:5,13	351:23	Julia
363:6	248:12	380:15	Jersey	352:23
367:11	249:21	issued	314:15	jump
368:14	involved	269:12,13	Jim	300:22
374:4 376:1	254:15 265:2	314:16	284:7	328:18,19
interests	265:6,7	337:17	Jimmy	jumped
307:24	271:17,18	339:18,21	367:9	269:7 360:7
interpose	271:21	353:7	job	jurisdiction
391:13	272:5,9,10	354:10	247:1 264:6	271:15
interpret...	272:11,11	issues	292:8,9	jurisdict...
384:7	272:12,14	263:6,21	300:9 351:8	346:2
interrupt	272:17	264:18	362:21	jury
294:25	274:21,25	268:5	jobs	348:22
interspersed	276:25	319:16	291:10	justice
400:16	278:16	340:22	John	248:2 249:8
intervening	279:9 284:9	359:15	270:15,17	253:10
300:7	299:21	365:14	284:5 305:1	254:3,10,19
intimidated	320:2	380:14	join	255:19
259:3	331:10	390:10	259:12	256:2,6,24
invest	in-person	issuing	joint	257:8
275:21	258:15	340:20	260:17	259:17
investigate	366:11	it'll	270:23	265:2,4,5
253:14	367:5	293:4	271:2 272:3	267:12,14
297:21	368:15,16	J	279:7,10	267:18,20
300:15	388:24	Jackson	journal	268:3,5,6
389:2	IP	269:17	310:12	268:15,16
investigated	275:24	274:17	judge	269:8,11
299:12	ISD	279:23	270:10 287:2	270:1,4,12
300:24	267:16			271:1,5



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274:18,25	345:20	315:15	398:17	late
276:25	346:14	317:8,14,24	399:3,7,9	252:6,23
278:2,8,11	347:8,10	318:15	399:10,12	286:8 302:7
279:7,14,16	349:2 360:7	320:1	400:18	317:4,5,7
280:8,12,15	363:6,15	326:23,24	knowing	399:3
280:20,22	391:8	327:1,2	249:22	Latino
283:7,14	kinds	328:5,7	knowledge	369:7 377:10
285:9 296:1	357:16	335:18,20	298:8 338:8	Latinos
296:13	Kingsley	337:22,25	392:15	389:9
300:13	292:23	338:6	known	law
305:1,6,8	knew	339:13,24	255:18	256:25 257:4
315:3	249:13 270:2	340:5,8,9	256:10	257:16
323:20,22	303:5 361:4	340:13,14	knows	258:14
325:21	399:8	340:16	275:14	268:25
333:3	know	342:24	342:25	275:25
365:16,18	250:18,20	344:13,13		280:22
389:17	252:16	344:13	L	281:16
390:18	253:16	345:15	labor	283:3
391:15	259:17	347:12,18	276:11,13	284:16
392:5,10	262:3,4,5	348:6,16,19	lack	287:6,11,14
justices	262:16	349:5,19,25	252:9 335:8	287:18
296:4 396:1	269:14,15	349:25	368:1,4	289:6
justice's	270:19	350:1,8,14	371:13	290:12
296:25	273:7,8	351:2,14	lacked	295:16,18
justifica...	275:17	353:19	365:6 371:2	295:23
367:15	277:5,24,24	354:1	ladder	297:1,3,7
Justin	280:14,19	355:24	287:9	304:25
280:21	282:10	362:10	ladies	307:9,12,13
	284:5	366:1	291:2	309:12,14
K	286:19,20	367:25	lady	314:3,15
Katrina	287:5,16	368:7	301:2 338:18	315:10,23
334:3	288:23	372:12,13	Lake	315:23
keep	289:7,10,11	372:17	334:20	322:19
255:24	289:13,16	376:2,2,4	335:19	324:21
284:13	290:9,15	376:16,17	language	326:5 328:1
353:16	291:5 292:7	376:24	343:16	328:10
360:4	292:8 293:8	377:6,11	344:15	332:13,14
Ken	293:15	378:12,16	Laredo	334:23
253:6	294:2,10,19	378:25	289:2	336:12
kiddingly	296:1,7	380:14,15	large	341:24,25
346:7	298:9 299:9	382:4	299:2 326:20	342:8,10,13
kind	299:15,22	384:19,22	350:22	342:19
253:22	299:25	385:17	368:4	343:13,16
277:18	300:12,25	387:7	largest	345:2,3
280:23	301:2,3	391:24	368:12	346:12
281:2 289:6	302:16	392:22	lasted	349:20
316:8,16	309:20	393:18,25	391:23	351:17
329:17	313:3,18	394:1,1,7,9		355:6 357:9
		397:2,7		



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357:17	390:23	361:5	341:15	249:23 328:4
359:23	lawyers	363:10	352:22	335:6
360:18,19	366:4 383:11	legislation	377:25	343:12
360:22	383:17	264:10	380:12	354:1 368:3
364:25	lay	277:22,23	381:12	374:4
365:17,19	289:16	278:7 279:9	386:12	liked
365:20	laying	279:18	level	396:10,10
366:7 370:8	283:23	280:16	264:25 280:4	likelihood
375:9	LDF	295:16,19	280:15	341:22
376:18,19	334:17,22,23	302:20	284:18,25	limitations
380:16,17	359:20	303:16,17	301:12	256:20
390:6,24,25	LDM	341:22,23	307:7 362:7	311:10,15
394:4 396:2	332:16	342:5	370:15	limited
396:5,16,17	lead	350:16	385:14,20	248:12
397:11	277:11	351:11	398:12	382:11
laws	leader	354:21	levels	limits
277:18	285:20	364:17	337:3	248:9 284:16
305:25	leads	legislative	liberal	381:25
306:3,5	341:8	303:24	296:3,25	Linda
307:2,6,22	League	331:14,25	324:14	359:7
308:5,7,8	287:19	legislature	373:23	line
308:11,20	learned	336:10	396:1	291:22,23
310:20	335:16	376:19	license	300:21
312:20	leave	384:25,25	314:2 327:18	308:22
315:6 322:3	249:16 361:8	388:11	327:18,19	333:22
322:4,10	leaves	390:15	334:7	lines
323:4 329:8	286:21,21	391:21	338:13,22	251:7 292:14
332:5,7	leaving	398:4	338:23,24	336:12
337:9,12	294:13	legislatures	339:1 352:7	398:20
348:23	Leavitt	303:17	364:20,21	link
353:10	248:9 280:21	legislatu...	374:8	348:7
359:12,17	311:11	333:1	licenses	list
359:21	led	legitimate	261:11	248:13 250:9
367:8,13	268:21	259:2 279:21	336:19	261:15
373:23	Lee	340:11	lies	314:9 328:8
383:23	274:17	351:14,17	322:4	328:8
390:5	left	367:2	life	339:13
lawsuit	251:1,2	letter	323:16 324:7	listen
256:2 262:25	302:5	253:13	324:8,9,10	362:20
275:10	303:13	378:24	334:5	listening
278:13	337:11	379:4,9	348:15	249:25 289:8
279:23,24	376:1,2	letterhead	353:1	364:2
283:10	383:22	317:23	lift	lists
lawsuits	legal	letters	363:5	393:14
280:14	255:7,8,13	314:7,8	lifted	literacy
365:25	330:6 331:4	let's	258:21 263:2	382:12
366:4	359:19	263:3 290:9	263:7 285:3	literature
367:23		313:4	light	323:9



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litigated	400:13	327:6 328:9	M	making
367:18	locations	341:1,2	machine	282:11
litigation	348:17 400:7	345:25	276:6 292:15	284:21
331:11 360:2	400:8	352:23,25	mad	290:20
360:8	log	360:9 368:7	279:4	295:11
little	269:13	380:11	Maddox	296:19
255:6 261:25	Lone	looks	284:7	299:10
272:16,18	347:2,3,6	291:16	Magazine	305:9
277:8 281:5	long	314:13	309:2	319:21,23
286:13	250:24	322:18	maiden	325:20
287:3,7,22	270:21	324:3	354:11	344:2
289:5 306:8	275:6	360:20	mail	345:22
308:5,9,15	286:11	loosey-go...	277:7 299:7	358:22
318:11,12	292:14	253:22	299:8	366:5
328:19	321:18	lose	305:19	males
333:18	324:6	279:4	355:20,23	360:12,14,17
342:8	348:20	lost	368:17,20	man
363:11	390:19	264:6 279:11	381:11	284:7,24
374:2	391:18	lot	388:25	293:14
377:24	longer	263:5 283:23	398:12	327:8
379:12	272:3 286:25	286:25	mailed	managed
383:7,11	293:20	289:2,3	277:9 378:24	347:24 349:5
385:4	312:17	290:11,12	mail-in	mandate
live	391:2	297:7	380:2 383:1	276:18
288:25 328:2	392:22	310:19	387:9,12,23	mandatory
328:3 362:7	look	319:25	388:1,5,13	393:7
lived	263:16	321:1	388:23	map
299:4 323:16	291:16,17	322:14,14	397:15	393:4
324:6	291:19	322:25	398:5	march
344:21	295:12	341:16	main	262:1 265:10
living	308:19	350:20	343:2 358:12	294:7
338:24 356:8	316:25	351:14	mainstream	299:17
local	334:1 341:5	353:23	375:14	364:11
259:21,24	341:6 344:2	357:10	maintain	375:11
260:3,4	363:10	361:16	295:7	marched
263:21	366:23	374:21	major	259:13
264:25	377:12	385:9	280:20	260:25
270:4,16,18	393:22	387:17	400:14	275:4
272:21	looked	love	majority	marching
275:2	285:5 315:5	399:15	296:4,14	273:16
280:15	333:21	low	313:15	mare
282:23	375:14	287:9	321:12	279:22
284:18,24	377:9	lower	322:19	margin
362:6,7	379:11	288:1,9,15	331:13	333:8
locally	looking	Lulac	333:16	marginalized
277:5	248:6 254:25	287:20	360:15	332:20,25
location	308:17	luxury	372:9	334:5
356:12	317:22	333:14		Marion



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304:24	403:11	meetings	mid	261:5 262:23
334:20	meager	263:5 286:15	377:15	mind
Mark	333:24	328:13	midnight	324:19
283:25 284:5	meal	meets	248:21	340:24
Marshall	292:10	273:24	249:18,18	366:22
299:25 333:4	mean	member	250:13	minimal
353:17,24	262:9 280:18	249:5	251:11	276:16
Mary	284:17,23	members	285:15	Minnesota
281:23,24	285:20	248:7 250:1	311:5	338:23 339:1
Maryland	287:16	250:7,22,22	migrated	minorities
316:24	316:22	251:3,5	353:18	286:17 288:1
match	322:16	252:18	Mikoff	288:14
344:20	327:13	259:10,11	307:18 308:4	289:9
matched	329:4 375:2	259:12	309:3	307:15
375:3	377:6 383:2	285:25	311:20	320:3
matches	means	286:1,3,4,5	miles	324:23
336:22	289:21 290:1	304:2 310:9	259:13	325:2
matching	330:22	317:18	265:19,25	332:20
355:14	347:3 385:8	329:25	276:4	359:12,13
material	meant	344:9	military	390:12
390:20	282:10	353:12	352:8 357:20	minority
materialized	measure	354:2	364:23	288:8 299:13
386:3,4	260:10	362:15	Miller	320:2 331:8
materials	measures	363:18	253:15 307:8	332:14
257:25	259:3 327:3	401:7	307:10	336:16,17
327:23	367:7	memo	312:25	336:19,20
341:4,11	mechanism	248:11	313:1	336:25
math	341:19 346:1	memorandum	million	337:5 338:3
395:10,14	media	248:6,23	259:20 260:2	341:13
mathemati...	289:21	249:11,13	260:13,20	346:4,5
376:15	Medicaid	249:16	280:1 303:8	351:7 369:3
matter	350:13	mention	365:3 368:9	minute
250:19	Medicare	322:11	368:11,25	328:17
322:17	350:13	357:12	371:10,12	399:19
327:8	meet	mentioned	372:20	minutes
matters	265:15,18,19	290:5 308:14	374:18	248:15,18,22
322:18	265:22	322:6	378:4	248:24
Mayor	272:25	325:16	384:22	249:2
279:22 363:2	273:10,12	merely	385:2	250:14
ma'am	273:23	399:6	394:11,12	251:2 302:7
349:9 389:18	274:2	merit	394:19,20	327:11
391:11	meeting	323:13	395:4,20	362:16
McCain	265:12 266:5	met	millions	397:19
369:18	266:7,10,13	254:18	275:18,18	misapplied
McGee	266:13,16	methods	293:10	341:13
354:18	270:16,19	310:15	303:22	383:20
McKinney	270:24,25	metropolitan	386:20	misclassi...
	274:9 402:8	400:14	million-d...	312:16



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312:16	333:5, 18	337:8	328:5 331:1	357:8 358:9
misdeemeanor	385:17	398:23, 24	345:18, 23	376:24
388:23	386:13, 15	MSC	346:10	needed
misleading	387:5, 5	297:24	347:19, 21	277:22
318:12, 12, 22	398:15	Mulhausen	347:22	328:10
mismatch	monitor	304:4, 6, 13	353:1, 21	339:8 348:5
374:7 375:1	334:18	304:16, 16	354:11, 12	374:23
missing	monitors	310:10	363:24	needs
327:4 343:13	266:21 267:3	316:25	364:3 374:7	320:8 348:24
Mississippi	month	317:1, 22	374:11, 13	negative
329:16	262:2	318:10, 17	375:1	306:6, 7
Missouri	months	329:25	named	neither
307:8 309:7	265:5 269:23	330:2, 4	275:8	329:16
333:20	270:3 274:6	multiple	names	402:25
misspelled	298:13	283:24	277:10	net
374:8	301:16, 18	359:15	314:21	347:2
misspoke	Moore	multiply	315:22	neutral
375:10	393:2	395:11	374:22	363:23
mistake	Morenz	municipality	nation	382:23
315:11	314:15	260:18, 18	359:14	neutralize
mistakes	morning	Murphy	national	336:7
310:19 311:3	252:24	367:11, 24	307:20	never
mobile	270:25	390:24	331:22	262:20, 21
332:24	271:4	Murray	359:16, 20	267:1 280:5
385:24, 25	273:19, 19	352:23	nation's	298:12
386:8	273:21	M-U-R-R-A-Y	334:4	301:4
model	274:2	353:1	nature	327:19
312:18	mother	M-U-R-R-E-Y	367:5	333:15
modeling	339:3, 3	353:5	nearly	342:15
311:5, 10	motivation	N	258:17	360:8
moderately	308:3 311:22	NAACP	331:10	375:17, 18
312:1	312:5	285:20	Nebraska	386:4
moment	motivations	287:20	309:1	390:25
328:10, 11	312:7	302:6 330:6	necessarily	new
374:8	Motor	331:4	318:21 394:2	256:7 265:4
Monday	296:20 305:7	359:11, 19	necessary	276:10
271:4 273:18	305:10	359:24	275:21, 24	278:13
274:2	mouth	360:15, 23	276:11	280:22
Monday's	284:21	361:6, 13	313:22	287:11, 14
248:12	move	name	357:23	312:20
249:17	320:5 333:22	254:1, 2	neck	314:15
money	348:3	270:15	353:16	338:17, 20
271:7, 9, 24	movement	304:14, 16	need	344:22
271:25	261:2	306:13, 17	259:10	368:22
276:7	movie	306:22, 25	267:16	374:20
293:14	333:15	314:25	273:7 305:8	386:16
328:24	moving	316:22, 25	324:22	news
	283:22 329:5		327:17	360:22



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newspaper 298:3	note 250:9	377:5,8,12 377:24	obvious 376:13	274:7 277:3 283:10
nice 376:18	noted 305:6 326:21	378:1 384:18	obviously 278:10	285:22 291:2,3,4,8
night 249:25,25 250:23	334:22 notice 263:1 322:24	numerous 256:12	322:15 375:2	297:18 298:19,20
nights 250:23 252:23	360:15 notify 256:19	298:23 367:22	occasions 297:22	298:21 299:17
Nineties 317:4,5,7	257:19 November 262:18	390:23 nursing 337:3	352:10 occur 347:18	300:10 301:13,13
non 297:4 358:5	276:24 number 248:19 250:6	O	366:11 367:4	301:15,16 301:19,21
nonexistent 258:17	251:22 256:20	oath 273:3	374:23 occurred 291:6 341:20	306:1,10 331:16
nonrespon... 346:7	262:4,6 299:3	Obama 278:1,8 279:16	occurring 277:20 341:22	354:19 365:3
non-commi... 286:1,3	309:13 314:1 328:9	371:6 object 346:7 395:2	occurs 337:23 388:25	374:18 388:23
non-member 288:20	328:11 336:14,17	objection 391:13	October 257:6	390:7 400:12,12
non-minority 336:17	336:18,20 336:20	objective 343:25	odds 322:16	400:13,14 offices 298:8 301:14
non-photo 295:20,25	337:7 350:22	obligation 324:24	offense 291:12	348:15,17 352:3 401:2
297:5 306:14,20	360:21 368:4 373:3	obligations 326:9	397:15 offer 331:24 335:8	official 253:9 284:6
316:12,14 336:24	373:7,20 374:4	observations 334:13 335:3	offering 343:19	304:21 314:8 318:1
337:2 341:6 341:9,25	375:25 384:21	observed 334:15 345:8	offhand 310:3	341:5,9 343:10
342:23 350:23	385:9 393:15	obsessed 322:22	office 254:20,25	Officially 329:20
355:2 358:24	394:4,14 395:4,16,17	obsesses 322:20	262:12 263:18	officials 254:18
393:14,16 non-photo... 261:10 370:9	395:23 398:5	obstacle 381:25	265:3,11,21 266:22	255:15,24 256:8,13,25
normal 390:6,8	numbers 294:23	obstacles 255:17	267:5,6,9 269:19,20	257:2,8,11 257:19,23
391:3 400:24,24	360:20 372:15	382:6,11 obtain 256:22 305:8	269:22 271:12	258:3,4 259:24
North 288:12	373:10,11 374:3	333:23 336:15	272:5,8,24 273:1,3,4,6	260:1,3,3,4 261:2,6,7
notary 402:18	375:22 376:6,23		273:8,20,22	261:18,22 263:12,21



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283:11	389:3	open	399:6	overcome
290:25	391:12, 24	250:20 251:6	opposing	352:16
298:16	392:4, 22	337:11, 15	287:24 288:7	overnight
331:18	393:19	345:22	288:10	271:4
400:21	394:9	349:15	opposition	overwhelming
Oh	395:13	383:22	250:18	313:14
264:19	396:13, 25	400:19, 23	287:21	o'clock
266:17	398:21	400:24	opted	270:25
290:14	old	401:1	372:12	
327:12	285:6 324:4	opening	option	P
329:9	344:21	248:14	316:11 336:1	pack
330:21	352:7, 24	operating	342:11	333:13
342:23	older	396:20	order	page
Ohio	352:17	opinion	258:14 280:2	296:15
314:15	369:12	250:19 263:4	333:23	314:18
okay	Oliver	263:10, 13	335:15	322:6
263:19	292:23	263:17, 18	336:5	402:21
264:19	354:11	263:25	338:15	paid
266:20	355:14	264:4	347:9, 10	292:11
269:5 271:7	once	272:19	356:12	330:19
273:9 277:4	255:4 271:24	282:15	367:12, 13	panel
280:11	273:9 306:6	291:15	367:20, 25	351:16
282:7	312:3	296:5, 8, 12	385:22	355:22
283:17	323:21	296:14	organization	paper
293:3, 4, 7	360:24	297:2	319:15	267:23 322:7
295:4, 13	383:3	311:21	325:23	paragraph
310:8 311:8	onerous	343:20, 20	359:21	248:11
313:4	332:19	351:15	organizat...	parents
314:10, 10	ones	363:8	323:10	261:12
316:23	303:18	opinions	original	277:13
317:1, 6	335:20, 21	297:1	338:25 339:4	part
318:18	351:4	opponent	352:5	253:9 257:22
328:2, 9	371:22	369:20	ought	260:17
329:9	one-hundr...	opportunity	290:9	261:14
330:24	306:15	254:12 271:8	outcome	268:20
342:21	one-thous...	280:6 304:9	403:3	278:17, 19
344:8	306:11	304:19	outreach	331:10
359:23	ongoing	317:20	386:10, 23	334:8
370:12	255:1 283:13	331:20	387:6	356:14, 19
371:3	285:10	379:11	outs	368:14
372:16	356:3 360:2	380:18	314:4, 6	376:18
378:14	on-line	381:5 382:8	327:24	387:14, 15
379:15, 15	356:21	382:25	outset	398:14
382:24	385:21	oppose	336:3	participate
383:11, 25	on-site	254:11	outstanding	308:3
384:23	258:24	opposed	362:18	participated
386:12	on-the-gr...	287:23	overall	360:8
387:3, 8, 15	334:12	322:14	307:12 377:7	participa...



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307:25	359:25	pays	350:2,5,10	307:13,16
348:22	passage	319:5	353:19	309:11
participa...	277:21	peace	354:9 356:7	313:17,20
331:15 332:8	passed	248:2 254:3	356:12,25	350:2
332:10	259:20	254:10	359:4	372:11
334:11	260:10,11	Peachtree	360:21	percentages
361:13,22	260:13,16	399:14	361:2 362:7	361:13
particular	278:22	peer	363:5 364:2	percentag...
249:24	284:7	310:11 313:2	367:25	374:20
253:11	305:17	penalties	369:4 372:3	perfect
254:11	315:11	264:8	374:4,12	373:17
262:11	324:21	penalty	378:10,17	perfectly
271:8,9	342:5	293:3	379:7,12,13	367:1
290:1	362:16	people	379:16	performed
332:15	376:18	250:17 262:7	380:5,17,19	307:8
337:5	379:20	271:4	380:24	period
338:10	388:8,12	279:12	384:8,17	326:6 338:10
343:3	390:13,15	285:17	385:3	378:15,19
356:12	391:19,22	286:7 287:8	386:14,16	391:3,7,9
361:22	391:24	287:25	387:4,6	392:23
362:2	passes	288:9 289:3	perceived	395:1
particularly	291:13 361:7	289:20	258:24	399:25
256:14 288:8	passion	290:18	percent	persists
331:9	274:15	291:3,9	282:5 306:11	345:14
334:13	passionate	292:13,18	306:15	person
340:24	274:15	294:18	309:13,18	264:6 289:16
341:13	passport	298:1 299:3	314:19	299:9
352:17	356:16 357:2	299:7,11	316:2 322:9	300:21
368:3	357:3	300:24	322:10,10	326:14
parties	364:21	302:6,13,20	322:13	327:11,13
362:2 402:12	pattern	302:20	325:11	327:15
403:1	380:11	303:4	328:15,16	346:16
partisan	Paul	313:21	328:20,21	347:22
290:3	305:2	320:16	328:23	353:2
parts	pause	321:21,23	360:11,12	368:18
250:4	340:23	322:21	360:13,13	372:10
party	pausing	326:2,21	360:16,17	373:22,22
253:7 287:12	344:5	327:4	368:8,17,19	373:25
287:12	pay	328:10,11	368:19	374:5 389:1
369:16	261:4 291:4	328:14	369:8,10,11	397:22
402:16,24	297:20	333:7	369:12,13	personal
part-time	333:22	341:19	371:4 373:4	286:18 354:6
295:11 344:1	357:3	344:23	373:21,25	personally
pass	paycheck	345:1	377:7	275:20 346:5
262:23 264:7	347:9	346:25	394:15	persons
281:15	paying	347:12	398:6,8	344:20
321:15	303:14	348:1,18	399:2	person's
338:23	330:13	349:25	percentage	308:6 339:18



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perspective	337:14,18	399:6,7	350:16	272:4
259:1 279:13	337:24	photograph	360:22	285:11,24
289:14	338:5 340:6	296:21	365:3	286:9,13
324:19	340:16,21	305:11	368:23	309:17
387:10	341:15,24	339:18	369:2,13	324:13,13
philosoph...	342:11,19	356:13,20	370:2	326:16,17
387:10	342:22	357:3,3	387:18,19	329:22
phone	344:21	photographic	388:6	333:2
265:17,20	345:2,3	339:15	393:21	335:15
266:2,4,6	348:14	phrased	placed	340:12
273:17,18	349:23	325:19	255:17	358:8,22
274:3 298:7	350:2,5,11	physically	350:18	369:14
photo	350:19	360:8	366:8	371:4 373:3
258:14 259:3	351:1,5	picked	367:22	380:15
287:6,9	352:8	338:19	places	391:18,19
288:23,24	353:10	picture	279:3 351:9	393:5
295:15,17	357:20	291:17,19	plaintiffs	395:22,25
295:18,23	358:4,10,21	295:12	367:25 368:1	396:5,17
295:24	363:3,4,7	344:3	plaintiff's	points
296:16,19	363:13,13	355:17,18	368:3	307:13
297:2	364:7,13,17	356:4,22,23	plan	312:22,23
304:25	364:18,22	356:25	292:10	361:10
305:5,7,8	364:22,23	357:5,6	play	policies
305:16,19	364:23	piece	317:16	308:10
306:3,11,20	365:3,6,10	273:25	played	policy
306:23	365:12,17	277:14,22	300:2,4	304:6,17
307:2,6,9	365:25	355:1,1	playground	306:8
307:12,22	366:2,2	358:19	303:15	308:11
308:6,8	367:12,14	383:6	please	351:3 382:3
313:22	368:1,5,23	piecemeal	253:25 254:8	383:2
314:5,18	369:2,6,13	388:7	286:5,5	political
315:2,10,20	369:15,25	pieces	295:1,1,1	279:14
316:9	370:3,4,5	261:10	304:14	307:24
319:15	371:2	pioneer	363:24	308:1,1
322:4	372:23	331:7	pleased	309:2
323:21	376:16	pitted	331:24	311:22
324:12	378:22,25	260:11,12	pleasure	332:7,8
325:18	380:2	place	331:5 364:2	339:19
328:1 329:8	382:21	264:25	plus	362:2
332:2,4,6	383:23	299:16	382:17	politics
332:17,19	385:20,23	316:10,15	pocket	280:15
332:22	387:1,2,9	327:16	297:21	282:23
333:21	387:19,20	332:19	pockets	314:14
334:16,23	388:8 390:5	341:14	386:13	poll
335:13,21	390:10	344:22	point	290:3 322:19
336:2,8,11	393:7,10,13	345:6	248:22	323:12
336:18,22	393:17	346:22	264:13	329:4,10,11
336:22	396:17	347:17,17	270:13	329:15,19
	398:25			



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331:18	398:22	Prairieview	preference	press
334:24	pose	254:21	368:24 369:1	273:16
335:7	304:25	255:18, 24	370:19, 23	293:11
344:16	332:23	256:13	371:5	362:12
345:8	posing	257:2, 10, 20	373:13	presumably
354:17	296:21	258:3, 4	396:1	359:1 392:23
355:2	305:11	259:8, 19, 22	Prepare	394:16, 21
374:12	position	259:25	331:21	presume
382:9 385:6	304:22 318:1	260:9, 21	preponder...	297:2 327:13
385:7, 21	318:4, 5, 8	261:13, 16	277:11	341:21
polling	318:10, 16	262:6	present	342:3 393:9
276:4, 5, 13	318:17, 25	265:20	277:10 280:6	394:2
341:14	328:12	270:23	305:16	presuming
345:6	positive	271:3 272:4	336:24	340:18
polls	284:25 309:9	272:20	341:15	pretty
287:13	363:4	275:7, 20	354:11	263:8, 14
292:19, 19	possession	277:5, 9	358:5, 11, 25	269:7
305:16, 20	357:24 359:7	279:11	359:1 380:6	273:12
327:12	possibili...	284:22	presentation	287:17
342:2 349:5	316:1	289:19	248:14	294:15
358:11	possibility	291:24	340:25	373:23
364:19	337:11	298:25	presented	389:20
365:5, 9	possible	299:3, 20	264:11	prevent
387:9	295:6 342:3	338:1, 2	343:18	286:6 290:8
400:19	342:4	Prairievi...	344:16	338:4, 6
ponder	348:25	257:15	355:4	366:25
376:1	possibly	precedents	presenting	preventing
poor	295:8 366:24	331:11	314:5 338:12	367:16
294:19, 20	post	preceding	341:9 343:8	previous
307:15	248:11	330:11	presently	255:16 312:4
333:7, 15	potential	precinct	345:11	367:13
335:12	382:1, 6	276:23	presentment	368:12
346:21	potentially	381:19, 20	343:14, 23	370:1
347:2, 18	343:20	precincts	355:7	392:13
poorest	369:16	275:23 337:5	president	393:22
346:24	poverty	341:14	293:11	previously
popular	333:22 334:3	precise	360:23	263:11 306:6
277:7	powers	350:1	362:10	365:7, 16
population	285:22	predecessor	365:18	373:2
303:25 312:6	practical	384:13	390:17	previousl...
323:3	347:11	predictors	presidential	257:17
326:20	practice	308:2	368:24 369:1	pre-clear
332:25	249:3 318:6	predomina...	369:17	270:20 271:5
369:9	practices	282:4 298:24	370:19, 23	271:6
371:11	254:16, 23	298:25	371:5	278:11
376:3 385:1	260:8 278:6	338:3	373:13	365:17
portion	390:3	prefer	president's	390:4, 5
324:7, 8		370:20	361:19	pre-clear...



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256:10	267:8 282:2	276:11	366:3	protest
267:17	285:23	278:4	promise	265:7
270:3 278:4	287:3	279:20	302:9	protested
278:15,21	311:20	305:4 308:1	proof	261:1
303:20,22	313:14	308:4	338:24	prove
389:16	324:7	310:12	343:18	290:22
390:20	328:18	312:1	344:16	292:16
391:2 392:5	339:15	313:21	347:10	311:18,20
pre-cleared	354:6	320:19	355:4	347:4,6,15
260:6 267:15	356:13	321:5 332:8	357:22	347:23
267:16	363:10	343:5	proper	391:10
268:23	367:14	345:22	295:7 328:16	proved
270:5,11	398:8	347:5,18	proportion	303:12
277:25	probation	350:7	350:25	335:11
280:17	391:8	356:14,19	proportio...	367:17
365:19	problem	370:16	395:5	proves
390:17	258:15,20	392:23	proportions	291:21
392:17	281:24	processed	394:21	358:23
primaries	283:19	262:20,21	proposal	provide
331:12	284:24	267:1	250:13 251:8	248:14
399:24	292:6	298:12,13	336:4	251:24,25
400:1	340:15,19	processes	346:12	254:12
primary	348:14	268:22	propose	264:8
255:3 334:17	353:9	331:19	369:25	275:23
368:24	354:14,15	332:10	proposed	299:19,24
369:1	381:16	processing	258:22	300:1,8
370:19,23	problems	257:1	351:20	305:19
371:5	255:20,22	prodged	393:12	315:2
373:13	258:8 262:4	268:13	proposing	317:16
principle	276:1 282:1	produce	261:21 281:6	327:21
333:20	320:24	385:20	351:19	333:18
prior	321:1,4,6	produced	prosecute	335:5
248:9 254:14	321:13	253:18	265:8 301:24	338:24
266:2,15	344:20	Professor	prosecution	340:6
275:19	358:19	307:7,10,18	293:1 298:22	342:19
284:5	391:9	310:1,24	301:24	347:3 348:1
387:24	procedure	professor's	303:12	350:5
388:22	248:5 372:12	309:1	protect	356:20
398:23,24	procedures	program	279:21 290:9	396:8
prison	256:7,12	257:24	305:3 335:4	provided
293:17	257:13	331:23	protected	250:10,11
private	258:8 332:1	369:24	278:5 326:4	251:9,10,24
339:24	proceed	Programs	protecting	251:25
privilege	252:19 254:8	311:5	259:14	255:8,20
349:6	process	progressi...	protection	257:9 305:7
proactive	249:7 256:5	281:15	279:19	355:1 394:9
367:7	258:11	282:20	331:22	provides
probably	264:2,5,5,9	prominent		285:23



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389:16	pull	249:6,21	373:20	259:13
393:12	297:25	259:5	375:22	raised
providing	punished	262:24	377:20	363:12
297:4 338:7	264:7	263:14	391:6 401:6	397:14
370:8	purchase	269:23	quick	raises
385:25	333:14	274:19	252:15 295:5	339:23
393:6 394:2	purged	280:8 298:3	349:12	raising
proving	262:7	301:12	353:14	294:21 351:3
311:15 349:4	purpose	302:2,10	375:21	rarely
provisional	251:4 292:17	321:2 324:1	383:11	333:15
291:23	purposes	339:23	397:22	Rasmussen
305:23	258:1 336:16	341:8,21	398:11	322:6
335:1,4,6,8	343:19	354:16,20	399:18	rate
335:13,22	pursuant	362:25	quickly	336:6
335:25	402:14	374:6 376:1	251:21	rates
336:6,7	pushed	383:22	366:10	361:17
337:4	268:13	389:3	quite	ratify
361:16,16	pushing	398:22	284:17 324:5	329:13
361:17	287:25	399:8,19	335:22	rationally
365:10	289:14	questionable	346:25	254:16
370:6,15,24	put	310:15	347:12,17	367:15
371:8,13	253:5 258:2	questioned	374:14	raw
372:11,21	287:18	278:22	quote	309:12
373:3,6	290:6,21	300:25	287:8 296:2	Raymond
374:2	301:15	questions	322:9	285:16 286:3
378:23	303:14	248:16 249:4	333:19	286:10,11
380:25	305:2	249:4,9	quoted	294:3,6,8
383:3 384:8	328:18	250:8 251:3	388:9	294:11,12
393:15,22	382:7	252:9 253:1	quoting	294:16
394:4,17,23	putting	279:15	294:7	296:2
395:21	280:3 284:20	285:13,16		317:20,21
396:3,8	p.m	286:2,6	R	reached
398:24	326:3	288:21	race	378:17
399:2,5	P.O	295:3	281:20 334:2	reach-out
provision...	261:14	297:11	369:17,19	379:2
381:2	Q	300:21	races	reaction
provisionals		304:1 310:8	306:19	357:9
378:6,8	qualify	316:19	racial	read
provisions	296:22	317:19	284:11	248:17
290:7 295:20	305:12	325:15	322:20	270:19
397:14	347:6	329:24	332:20	311:7 313:6
public	qualifying	335:18	336:12	313:8,10,11
249:20,22,25	334:25	337:15	346:1	323:9
262:17	quantify	344:9	racially	357:14
325:6 326:7	370:14	346:20	254:22	readily
340:1	question	352:12	255:11	326:24 359:6
352:11	248:18,25	354:19	256:5 346:2	reading
402:18		363:17	rain	



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283:16	303:3 308:5	314:12,17	336:13	256:16,21
294:11	308:9	315:17	339:24	256:23
315:19	324:23	331:2	340:1,13	257:1,13,15
ready	339:9 342:6	362:16	341:24,25	258:8,10,11
378:21	344:24	363:23	343:5	260:8 262:9
real	348:19	395:14	regarding	262:20
258:19,24	349:19	397:18	248:7 268:5	263:18
281:22	377:2	402:9	280:16	291:6 315:1
301:23	382:16	records	291:6	316:13
345:21	reasonable	269:20	295:20	336:23
349:12	320:18 321:2	275:20	331:25	342:13,14
398:11	325:17,22	redistrict...	regardless	342:15,18
reality	326:14	286:18	281:20	343:8
334:4 335:6	327:3 329:1	reduce	388:25	350:12,24
346:3	reasonably	311:1	regards	355:13,17
353:25	249:23	reduced	269:18	355:18
realize	reasons	394:14	register	356:19
283:25	255:12 257:3	reduces	293:1 305:18	357:1,17
realized	257:5	394:4	326:17	358:6
270:4	292:22	reducing	327:16	368:22
really	361:18	376:11	355:20,23	374:17,19
251:20	375:25	reduction	355:25	374:20
274:25	379:7,11	316:2	356:7,13	386:13,16
290:1	402:22	redundant	357:10	386:20,22
292:16	recall	363:24	registered	386:23
297:8	265:23,24	refer	255:5 266:25	388:14
318:14	283:16	268:2 370:21	281:10	393:13
321:18	384:18	referenced	313:24,25	400:11
323:5,14	396:7	363:1	327:14	regular
327:25	receipt	referral	356:3	344:3 346:17
333:2 336:9	402:20	265:3	360:12	354:17
336:10	receive	referring	368:9 377:8	381:5
340:15	258:6	262:1 296:2	380:10	regularly
343:15	received	343:12	386:16	352:14
345:25	365:4 368:21	392:11	387:2,6	reject
349:24	recognize	refunds	registering	270:13
350:15	354:9	297:17	355:16	rejected
373:18,20	recognized	refused	registrars	255:11 257:2
374:3	284:6	264:2,9	256:15,17,18	336:6 337:4
382:20	recommend...	265:8,15,18	256:19,22	rejection
383:10	268:10 386:7	265:19,22	257:25	256:20
384:11	record	278:21	258:1,6	257:14
389:15	248:23 249:8	300:1	388:13	337:5
393:20	253:5,9	refusing	registrar's	361:17
reason	262:17	256:16	400:14	relate
249:18	272:24	regard	registration	254:13
251:12	285:12	295:18,25	255:10,17	related
276:8 278:3	294:2 304:7	297:1,3	256:5,7,11	248:9,18



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367:15	replicate	299:14	Republicans	317:15
403:1	315:7	310:9,10	251:14,19,22	332:23
relates	report	314:10	321:12,14	334:16,21
325:17	253:17	317:19,21	reputation	336:3,24
348:14	306:12,16	337:17	301:5	337:1
relating	306:21,24	349:11,13	request	346:16
296:18	308:17,18	351:20,21	272:24 273:4	354:25
relationship	313:13	357:13	273:12,15	367:14
351:18	314:16	359:7,8	274:20	369:6,13
relations...	322:6	362:17	requested	379:3,10
306:7	335:24	363:12	274:9,24	380:2 381:1
relatives	393:24	372:16	402:16,23	381:20
353:21	reported	373:14,15	require	390:14
release	345:5,7,8	375:21	275:24	393:11,11
360:22	351:25	377:18,21	295:21	393:16,17
362:12	Reporter	377:22	296:19	393:21
released	402:5	389:11,13	297:1	requirements
271:7,9,24	REPORTER'S	389:14	306:13,17	256:10
271:25	402:1	391:16	306:22,25	258:25,25
relevant	reports	396:14,15	315:9,20	276:15
313:23	375:8	397:17,20	316:12	281:1,11
reliability	represent	397:21	336:4	295:15
305:4	254:1 282:5	399:17,18	349:23	297:4
relied	289:3,4	400:5	356:11,18	310:25
260:7	296:23	REPRESENT...	367:7	332:17,19
relief	302:16	247:8	369:25	335:24
257:10	304:15	represented	370:3,4	336:8
relying	305:13	289:4 325:8	392:14	345:20
361:21	324:18	representing	393:23	346:14
remain	327:1 331:2	304:21 318:1	394:25	359:5 382:7
333:1 334:8	363:25	319:20,21	required	385:1,23
remaining	represent...	330:6,12,14	257:19 258:2	393:8
251:1	357:16	330:17,18	296:20	requires
remedy	represent...	330:23	305:11,15	258:14
380:20 383:5	259:12	reps	314:18	296:16
remember	261:24	275:3	323:10	305:18,22
265:9 310:3	263:16	Republic	335:10	332:9
325:19,20	264:22	366:17	340:14	requiring
357:14	274:13	Republican	342:12	256:18 307:2
remind	277:15	250:12,16	379:1	332:1
292:24	282:7,9	251:10	385:22	356:25
reminds	285:18	253:7 280:5	389:16,16	372:3
293:8,8	286:3,10,11	284:10	requirement	requisite
remove	293:25	286:25	278:15	380:12,13
375:15	294:3,6,8,9	287:11	303:20	research
repeat	294:12,14	294:21	315:2	307:5 328:15
376:24	294:16,22	321:7,10,11	316:10,11	residency
	296:2 297:9	351:15	316:12	281:11



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residents 277:12	rest 274:13	rich 324:14	359:21	273:9
resign 264:13,19	304:19	ride 292:9	360:1	role 388:1
resigned 292:22 293:7	356:3	right 255:25 259:8	363:14	roll 278:12 317:1
301:22	371:25	259:10	364:9	rolls 262:7 303:23
resolution 271:3,7	restrict 332:7 337:9	261:1	366:16,19	344:22
resolved 341:10	restrictions 305:3	263:12,24	372:6	room 344:24 356:8
resource 389:5 393:1	result 250:13,14	267:22	376:14	roughly 282:14
resources 275:22	277:23	269:4	377:13,15	394:21
287:13	278:6	272:19	377:18	395:17
291:10	334:23	273:14	378:5,11,15	399:5
292:15	371:16	280:9 281:9	379:14,21	row 250:24
297:17,19	375:9 392:4	281:12,13	379:22	Rule 402:14
respect 268:18 281:8	resulted 277:21	282:14,23	380:1,9	ruled 304:24
284:18,18	results 312:8,11,16	288:17	381:23	383:18
286:12	resume 356:23	291:20,25	383:1,20	rules 361:3
289:10	retorts 375:23	293:18	385:25	ruling 281:13,14
293:21	retroacti... 270:20 271:6	295:22,24	395:1	282:18,21
294:1	retrogres... 390:11	296:22	396:13	282:24
366:13,20	return 372:1 380:6	297:15	399:11	283:1
368:6 369:3	380:18	298:1,5	rightfully 280:18	284:21,25
369:7	381:6	299:1	rights 254:12	285:1,2
respectfully 342:7	returned 371:18	302:15	255:15,23	360:18,25
respond 249:10	402:18,20	305:12	256:3,9	rulings 281:12
263:24	revenue 385:12	308:23,24	257:13	run 298:2 383:8
respondent 312:7	review 253:10	316:3	259:19	running 253:15
respondents 306:10,12,14	257:17	319:23	267:13	303:22
306:16,19	reviewed 278:7 310:11	320:1,8,15	277:21	runoff 368:20,21
306:21,23	313:2	321:8,9	279:21	369:19
306:24	re-take 338:23	322:7 324:8	285:8	runs 363:15
response 263:13 273:9	rhetoric 297:7 329:5	325:8	286:16	rural 261:13
310:13		328:14,16	302:25	288:25
responsib... 267:13 329:2		328:23	320:3,4	289:2,3,5
349:3,4,7		329:19	331:8,11	
366:13		330:25	332:18	
		335:1 337:6	336:1 337:7	
		341:12	337:13	
		345:18,18	366:19	
		345:25	379:21	
		346:9,10,19	390:2	
		347:1 348:8	rigorous 307:9,22	
		348:13,19	309:23	
		348:20,21	rising 334:3	
		351:5,6,8	road 266:1,3,12	
		354:8		
		358:16		



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289:20	279:18	scientific	see	296:17
325:9,9	283:19	373:17	248:17 263:5	297:6
S	284:13	scientifi...	264:10	304:11
Safe	285:2,3	375:15	272:1	330:7
319:9,11,12	286:19	sealed	292:12	339:16
319:13,14	291:8 292:2	301:14,15,16	299:9,23	340:23
319:18	325:3	301:19,20	303:8	349:23
330:13,15	342:21,23	seasons	333:15	351:10,19
330:17,18	347:16	264:20	340:19	355:10
safeguard	348:15	seat	341:13	357:24
335:5	353:15,20	335:10,14	363:6 375:5	358:25
safety	353:22	second	386:12	senator
325:6 347:2	says	260:18	seek	262:2 263:13
352:11	248:11	308:11	259:1	321:11
sale	249:16	313:20	seeking	369:18,18
269:22	252:19	317:24	264:3 290:24	send
272:22	277:4 279:5	325:17	seen	253:13
sat	279:6,8	338:14	277:14	356:22
252:22	285:7	374:6	286:15,18	379:3,9
262:10,10	290:21	386:14	290:11,15	sending
283:10	317:24	400:10	294:22	300:7,11
286:14	322:9	seconds	315:15	senior
satisfy	324:21	272:7	366:6	304:6,17
336:2	343:17	Secretary	367:23	328:2,23
saturation	344:15,21	266:22 267:6	369:21	sense
362:1	348:10,12	267:9	375:18	333:12,12
save	360:22	335:22	376:20	376:23
333:13	386:8	341:3	387:17,24	383:2
saving	SB	354:19	388:1	389:22
333:5	331:25	360:10	390:10	392:11
savings	scale	363:22	segment	394:6
333:6,11	288:2	364:4,11	354:5	sensitive
saw	scheduling	387:25	segments	277:17 351:3
283:1 285:6	265:21	388:22	323:3	351:13
291:7	272:24	393:24	segregated	sent
292:16	273:4,8	397:9	335:20	248:6 271:3
368:12,17	school	399:12	self	297:22
368:24	259:21 260:6	Section	356:25	300:24
369:7,8	260:7,17	256:9 390:2	self-impo...	391:6
395:8	270:22	secure	307:25	sentence
saying	278:14	331:8	selling	315:19
252:7 263:10	279:25	security	270:7 293:11	317:24
264:4	280:22	314:1 328:6	Senate	398:15
267:24,25	299:3 362:4	333:12	248:3 250:18	separate
271:23	schools	339:1 352:9	254:6	352:10
272:2	278:23	357:20	262:18	separated
273:16	science	358:2,7	281:6	249:21
	305:25 309:2	384:15	295:10	serious



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263:8	Sheila	372:9 388:18	single	280:19
seriously	274:17	395:24	264:6 291:11	slight
274:16	shell	signed	367:23	281:16
366:14	398:9	256:2 271:3	sir	small
serve	shelter	376:19	344:10	260:6 276:16
256:15	333:25	significance	351:24	280:25
served	shocked	306:9	358:4 364:1	281:4 282:3
364:10	398:9	significant	370:1,7,18	306:8 350:2
402:11	shorter	249:23 255:4	371:1,7,18	350:5,10
session	399:24	255:22	373:2	smaller
291:1,5	Shorthand	263:15	375:10	373:8
set	402:5	285:19	377:17	Smith
266:12 293:5	show	296:23	378:2 379:8	248:1 249:10
297:24,25	310:16,18	300:14	379:17	251:16
298:6	323:10	305:13	384:16,19	252:5,12,14
305:22	371:23	306:7 312:2	384:24	252:16
400:22	372:3	312:9,10,11	386:5,11	253:2,20
setting	390:11	312:13,15	388:2,20	254:5,8
266:2	shown	312:17,18	389:6 392:7	277:16
settlement	402:12	332:23	392:13	282:7
257:11,18,22	shows	340:15	394:8 397:1	285:11,25
seven	328:15	374:17	397:16,23	294:25
250:10 251:9	335:25	376:25	398:2 401:5	295:4 296:9
251:14,24	365:9,11	silent	sit	296:13
251:24,25	side	260:2,3	265:10 285:7	302:3 304:1
257:18	250:11,12,15	261:8	site	304:5,14,18
275:11	250:16	similar	276:5	308:13,14
280:5 289:4	265:20	306:24	sites	310:8
298:4,11	301:10,10	365:20	276:4,13	314:12
302:5	309:17	369:24	sitting	316:19
400:15	327:6	390:14	273:3 324:15	317:3,7,9
Seventies	351:12	394:23	369:18	317:14
278:16	353:17	simply	situation	325:15
377:15	391:2 397:8	267:24 294:1	262:6 297:18	329:24
severance	sides	294:7 297:3	311:18	330:3,5,16
291:4	295:8 311:9	312:5	349:3,17	330:20,22
shake	375:13	316:11,22	380:20	330:25
278:5	sign	336:2	situations	343:22
shakes	346:16	340:18,20	271:20 335:5	344:8,11
340:2	347:19,21	340:25	six	345:17
share	signature	341:24	250:11 251:2	346:19
367:4 376:9	341:1 388:12	351:18	251:10,25	349:11,18
Shauna	388:14,15	355:23	292:3	353:12
402:5 403:9	388:16	358:22	323:21	354:16
shed	394:24	394:3	364:18	355:5,9,19
343:12 354:1	402:15,18	395:21	six-hour	356:6,11,18
sheer	402:21	Simultaneous	292:4	356:24
374:4	signatures	294:5 324:25	skeptical	357:12



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358:2,6,16	354:18	325:16	spell	355:8
358:18	356:22	330:9,19,21	353:21	358:12,12
359:4	366:20,21	330:24	spelled	371:21
362:15	367:1 381:2	343:11	352:25	standards
363:17,20	381:19	344:10,11	353:22	321:20
369:23	383:18	345:16	354:13	standing
372:16,19	somewhat	346:21	spelling	359:13
373:14	376:5	353:14	353:4	Star
377:20	soon	354:24	spellings	347:2,4,7
389:13	266:11	355:7,11	352:21	351:25
391:17	sorry	357:25	spend	357:14
393:4 395:3	318:24	358:4,8,17	275:17	start
396:13	319:14	359:2 393:1	303:21	249:14
397:18	344:11	395:2	322:21	276:14
399:17	372:17	speaking	328:24	308:13
400:6 401:6	383:9 384:1	273:7	384:17	346:24
snappers	385:2 395:2	speaks	385:5,13	353:11
252:25	399:9	389:7	386:12,18	356:4
social	sort	special	386:20,24	370:22
305:24 314:1	297:16,16	270:24	399:19	399:8
328:6	316:14	399:24	spent	started
338:25	325:1	specific	252:23	248:20 250:6
352:9	328:25	266:5,7,10	279:25	360:2,6,7
357:20	348:8 354:2	273:21	384:22	393:23
358:2,7	354:16	284:14	387:20	starting
society	372:8	336:11	spirit	258:10
348:3 350:8	sought	384:24	363:16	392:14
354:5 363:4	276:2,3	specifically	384:12	starts
363:5,13	sounded	248:10 256:6	spring	353:10
softball	372:14	266:16	255:3 276:3	state
261:17,18,21	sounds	340:9 377:9	square	254:1 257:4
289:17	315:19	382:3	276:4	258:13
solution	south	specifics	stadium	260:1,3
345:25	263:5 293:15	337:25	260:22 261:4	261:2,2,7
Solutions	325:9	340:16,25	261:5	262:18
403:10	speak	specified	staff	263:7,22
solve	266:9 291:21	398:15	276:13	264:25
258:15	374:17	spectrum	stand	266:22
somebody	393:2	316:2	248:15 279:4	267:2,6,9
274:4 290:8	Speaker	speculate	396:5	267:10
290:12,22	248:4 251:13	376:6 377:2	standard	271:22
292:9	251:20	395:9	249:2,2	275:21
303:14	252:10,13	speculated	293:17	277:24,25
313:19	252:15,21	367:14	318:5	278:14,19
319:7	253:4 295:2	speculating	343:14,15	279:7,8
321:18	296:6,11	392:24	343:22,23	280:4
322:20	297:10,12	speculation	343:24	283:22
344:24	302:9	367:16	354:22	284:25



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286:17	399:15	360:9,10	275:14	340:6,12,21
294:23,23	400:8 402:6	368:6	stringent	studied
297:17	stated	393:22	310:25	313:4 322:2
303:20	367:11	394:10	strong	376:15
304:14	statement	399:11	261:2 396:1	379:7
305:2	273:16	status	strongly	studies
306:13,17	361:19	389:1	307:5 311:25	281:3 305:25
306:22,25	states	statutes	struggling	308:18
309:10	254:18 256:1	390:5	281:9,12,13	316:5
310:1	257:7	stay	stuck	study
314:13,14	304:23	250:23 251:5	271:11	280:23 306:2
314:16	305:17,22	261:7	student	306:5
315:6	306:11,12	273:24	255:9 275:9	307:18,21
316:22	306:15,17	staying	281:20,23	307:23
319:16	306:20,20	292:18	297:24	308:6,21
321:8,11,12	306:21,23	steal	336:25	309:1,3,7
329:12,13	306:24	293:15	338:11	309:16,19
329:15	309:21	stem	students	309:21,23
331:1,14,19	314:18,20	283:19	254:21 255:3	309:24,25
332:25	315:5,20,21	step	255:18,25	310:5,11,13
335:23	316:24	264:15,17	256:14,14	310:13,15
337:23	320:10,13	276:21	257:3,10,20	310:17,18
338:11,13	321:1	335:9	258:5 259:8	310:22
338:16	329:14,17	Stephen	259:19,25	311:5,7,20
339:9,11	331:9,15	296:1	260:9 261:8	311:21
340:7 341:3	337:8	Stephens	261:9,16,20	312:4,25
345:14	359:15,17	296:13 305:2	261:22	315:7,14,15
348:6	380:9	305:6,9	263:11,25	316:21
350:19	statewide	323:20,22	264:24	333:10
359:13	284:6 307:12	325:21	266:25	389:7
361:2,7,8	370:15	stepped	268:18	stuff
362:1,13	state's	264:23	269:15	341:11
363:22,24	266:22 267:6	steps	272:20	384:12
364:4,8,11	267:9	320:18	275:7	stunning
364:22	307:12	325:17,22	276:23	285:4
366:4,5	354:19	stick	277:8	subdivision
368:10,13	360:10	293:20 395:7	281:10	339:19
371:11	399:12	stigma	282:2,17	subject
375:17	state-level	326:20	284:21	343:8 390:2
384:5	307:20	stood	289:19	subjected
385:13,15	statistical	260:2,3	291:9,24,24	254:22
385:19,25	309:22	stop	292:7	subjective
387:25	statistic...	284:21	297:13	343:21
388:11,22	306:7 312:2	341:19	298:5,23,24	submission
390:12,16	312:9,10,11	stopped	299:20	390:6
391:5	312:13,14	329:5	302:1,11,16	submissions
392:16	312:17,18	story	303:1 338:6	390:8
393:5,6,25	statistics		339:12	submit
397:10				



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334:25	supporting	347:5,17	278:9 290:20	362:8,24
356:25	325:21	351:8 362:5	293:5 320:8	363:6,6,8
390:1	supports	363:9	320:15,22	366:13,18
submitted	323:11	366:25	320:25	384:10
256:17	suppose	369:23	321:14,19	385:22,22
357:19	250:19	375:2 378:3	348:23	391:2
390:6,20	340:13	378:25	353:3	397:19
subsequently	supposed	383:24	386:17,21	taken
259:4	326:18	384:20	386:22	254:24
subsidize	supposing	386:2 388:7	388:5 389:8	289:12
385:16	328:17	388:17	394:10,23	327:4
substantial	suppress	389:4	systematic	348:22
296:22	281:2,6	395:10	294:17	361:18
305:12	286:16	400:9	345:10	403:2
395:23	307:6	surely	378:19	takes
subtract	316:16	296:21	systemic	358:17
333:24	320:4	surprise	388:6	392:22
sued	suppressive	352:12,15		talk
259:17	307:3	surprised	T	334:11,12
sufficient	supreme	288:23	tab	338:8
257:20 358:7	259:8 275:12	surprising	303:14	345:17
suffrage	275:13	388:22	tables	363:11
297:15	281:14	Surprisingly	298:7	365:15
suggest	282:19	388:21	Tailor	370:18,19
280:24 281:4	296:4,14	surrender	363:21 364:1	370:22
308:10	304:23	339:1	364:3	377:23,25
313:14	324:15	surrounding	373:15	383:7
316:15	328:25	334:20	375:12	398:11
suggested	329:7 333:4	352:18	377:22	talked
306:6	333:20	361:23	401:8	266:20
suggestions	348:19	survey	tainted	267:11
297:23 386:6	360:18,25	311:24 312:6	260:2 261:3	276:8
suggests	365:22	312:9	261:8	365:15
281:17	383:22	surveyed	269:16	368:7
282:25	395:25	306:10	303:5,5,11	370:12
307:2,5	sure	survival	303:18,19	377:5
309:13	261:3 267:7	333:8	303:23	383:13
Suite	267:24	survive	take	387:10
403:11	268:8,9,13	346:23	250:5 251:1	talking
summary	274:11	suspect	251:8 268:6	270:6,7
313:8,10	284:4 292:5	271:16,17	274:16	280:25
support	302:4	289:19	286:7,9	288:7
303:15 308:8	309:20	suspects	302:8	292:21
322:14,19	319:23	279:2	322:24	296:15
347:25	320:2 321:3	suspicious	326:6,9	302:12,20
356:24	321:20	277:18	333:2	320:12
supporters	335:15,22	279:13	341:16	329:6,7,9
287:13	345:22	system	342:24	337:20



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355:9,11	385:9	318:7 338:2	281:6	thank
360:4	395:11	363:22	283:22	253:20
362:12	398:17	375:17	284:2	254:11
370:1	telling	389:4	291:11	261:23
377:17	272:8 273:3	testimony	293:15	274:13
386:13,21	274:1 319:8	248:12	296:16	277:15
386:23	327:2 365:6	249:21,22	297:3	294:12
387:1	temporarily	249:25	303:20,21	304:2,18
392:24	262:25 300:6	250:14	305:15	310:10
398:13	temporary	254:12	313:13	314:10
Tanner	289:23	261:25	314:2 316:9	329:23,25
270:15,17	tended	299:19,24	317:3 319:9	330:2
tape	294:20	300:1,8	319:11,12	337:15
301:15	tension	302:23	319:13,14	344:10
tarnished	387:8	304:20	319:18	345:16
301:6	term	310:24	320:8,12,13	349:9
Tarrant	316:21	311:12	320:21,23	351:21
351:23 352:3	terms	317:22,25	320:25	359:8,9
352:11	250:7 278:5	331:24	321:4,5,6	362:19,22
tax	287:18	332:4	321:22	363:18,19
279:2 323:12	295:11	334:10,10	325:9	364:5
329:4,10,15	304:9	362:18	329:12,15	373:18
329:19	308:18	373:16	329:19	375:16,19
382:10	322:13	375:13,18	330:13,15	375:20
taxes	340:16	382:18	330:17,18	377:18,22
329:11	354:23	384:9 389:7	331:17	377:23
teacher	394:17	389:12	332:24	379:6
292:1	396:2	393:5,6	336:4,6,25	389:11
techniques	398:15	402:9 403:2	337:8,13,21	391:16
309:22	test	tests	337:22,24	397:17
teeth	338:24	382:12	339:19	399:14,15
283:3	343:25	Texans	340:4,7,9	400:5 401:7
Tel	testified	313:15,24	345:14	Thanks
403:12	262:17	350:22	347:1 348:6	330:3 349:8
Telegram	287:21	Texas	353:17	theirs
352:1 357:14	testify	247:8 254:13	357:24	372:14
tell	248:3 249:20	254:17,19	359:18	theory
261:16	254:5	254:24	361:7,12	386:2
262:19	304:11,19	255:6	362:5	therefor
290:10	321:24	257:16	364:15,16	402:22
293:12	330:7	258:13,21	365:20	thing
294:16	340:10	259:15	369:25	258:9 264:22
313:12	345:10	261:13	383:1 385:2	267:11
325:23	361:9	266:22	389:8,9,19	269:18
359:10	373:21	271:22	390:14	272:23
364:24	374:7	278:15,17	391:6 400:9	283:18
365:25	382:20	278:17,19	400:10,20	284:11
366:12	testifying	280:4,25	402:6 403:9	289:16
			403:11	



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292:20	293:22	383:11,18	367:9	390:19,20
348:7 349:5	302:10	389:19	throw	391:3,7,9
355:15	310:22	393:2 395:3	261:17,21	391:18,19
361:6	311:10,19	398:8,19	277:3	392:5,16,23
369:14	311:20	400:10,20	throwing	395:1
376:21	314:3,24	thinking	261:21	396:17
382:2	318:24	293:14	289:17	399:25
383:12	319:18,21	346:23,24	354:14	times
things	319:23	348:17	thrown	293:22 294:2
276:18	320:10,10	third	364:8	299:10
277:20	320:13,18	372:4 386:15	tied	352:2,2
280:15	320:22,24	thirdly	279:8	388:19
282:12	321:1,4,5	375:6	tight	399:15
288:19	321:13,23	thought	276:8	Timothy
289:22	323:2,2,7	251:24 264:5	time	310:24
327:21	323:12,17	272:7 300:5	248:1,9,18	tiny
333:17	323:20	300:6 309:8	248:20,20	350:25
336:11	324:9,23	327:3 331:5	249:13,15	tired
341:10,12	325:1,2	353:19	250:5,7,24	264:20
341:17	326:14	thousand	251:11,16	Toby
342:1	328:24,25	262:9,19,22	251:18,18	393:2
344:12	329:4,9	264:23	252:4,6,8	today
348:3	330:16,22	268:18	252:11	253:17
351:11	332:11	280:10	253:3,13	302:13,17
367:11	336:9	293:15	254:24	304:3,20
374:14	340:11,11	thousands	257:20	310:11
382:3 388:4	340:22	259:25 276:9	260:24,24	321:12
391:2	342:19	threat	268:11	327:5
think	343:2,11,12	332:24	271:8,9	331:24
249:6,12	343:19	threatened	274:10	332:4,12
250:23	344:23	293:1	276:8	351:22
251:8 252:2	345:21	three	285:12	353:11
252:4,5	348:1 350:3	248:10 263:1	286:4	354:12
262:8	350:4	276:25	289:17	355:12
263:17	351:10	283:10	304:5	359:10
273:11	352:13	286:21	314:11	361:9,16
274:19,20	353:9 354:2	291:2,9	322:21	364:6 365:8
276:15,19	355:21,21	294:13	326:9,15	365:21
276:21	356:14	297:22	330:5 339:5	366:15
277:1 281:8	357:7,15	349:15	339:7	377:6,23
281:22,24	358:8,14,22	352:2,2,10	352:24	383:18
284:24	360:1	362:15	360:2	told
285:21	361:14	373:20	362:16	254:25
286:23	363:11,12	386:13	363:20	266:18
287:24	365:6	388:19	375:4	272:15
288:4,6,10	375:23,24	396:1	377:19	273:21
289:13	376:6 379:9	400:17	380:15	276:2
290:5,19	380:16	three-day	387:20	288:21,23
	381:1,7,13			



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292:20	247:21	true	turned	288:22, 24
298:2	402:10	269:6 293:13	290:10, 11	295:21
338:14, 17	transcript	303:12, 13	298:2, 3, 10	297:22
338:21	402:8, 20	345:15	298:11	302:5
tomorrow	transient	354:24	335:2 352:3	306:11
249:25	336:21	368:20	352:9 365:5	314:7
tonight	transients	393:18	turning	326:10
399:20	345:24	402:9	338:20	328:13
Tony	transport...	truly	turnout	333:2, 13
253:15	326:23	259:13	281:2, 7	336:24
top	330:20	375:18	306:3 307:4	337:2 341:9
317:23 387:7	traumatic	truth	307:6, 10, 12	342:20, 21
399:10	301:3	316:7	307:16, 21	343:5
total	travel	try	307:23	352:12
248:18, 19	335:14	292:4 294:17	308:2, 7, 23	358:5 361:9
312:1	364:23	302:7	309:9, 13, 18	365:12
368:10	385:24	362:24	311:1, 6, 15	371:24
370:24	traveling	363:7	311:16	395:11
371:4, 9, 11	250:4	trying	315:16	399:20, 21
372:20, 21	treat	252:17	316:3, 16	401:1
373:4	325:24	254:15	322:5	two-day
394:19, 20	374:10	263:20	361:14	378:15, 18
399:3	treated	267:22	368:8, 25	380:17, 23
totally	345:1, 2	286:20	369:8	type
284:15	tremendous	290:14	375:25	297:12
316:18	277:2	293:23	376:2, 11, 13	336:11
town	trial	294:1, 3, 4	376:17	343:9 353:3
260:11, 12, 12	367:9 388:10	297:21	377:7, 12, 13	types
260:12, 14	tried	300:2	395:4, 15, 18	335:21
260:15, 16	250:24	303:10	395:19	341:12
260:19	284:16	310:4	turnouts	typically
301:10, 11	317:10	315:14, 17	308:20	292:4
303:8, 9	321:22	320:2 321:2	twice	typos
325:11	352:2	321:3, 25	258:4 275:4	352:21
towns	375:15	347:23	388:9	
289:5 325:9	388:2	357:18	394:13	<hr/> U <hr/>
325:9	trip	359:11	twist	Uh-huh
train	296:19 305:9	362:12	293:23	268:19 322:8
275:22	335:10	365:14	two	unable
386:15	336:4	381:17	248:10	253:12
trained	triple	395:22	250:23	324:24
385:7	388:12	398:6, 7	251:13	336:2
training	trouble	399:4	252:4	unacceptable
257:24 258:1	250:3 308:16	turn	262:25	277:20
258:6 341:4	349:22	290:17, 21	264:9 270:3	unclear
341:11	troubling	292:7	279:24, 24	361:18
385:6, 9, 21	258:12	turnaround	283:10	uncomfort...
transcribed		307:14	286:22, 22	345:15



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unconstit... 305:1	unfortunate 367:4	255:21	380:10	vigorously 389:2
uncounted 335:17	unfortuna... 277:22	updating 374:22	value 366:18	Vinson 280:1
undermine 332:17	332:16	upheld 287:6 296:7	vantage 324:13	violate 286:16
understand 267:2,22	341:18	296:12	variety 361:17	violated 255:15
268:24	346:3 390:3	use 252:6,8,10	various 256:4 326:23	256:25
272:13	unfunded 276:18	260:18	331:15	259:19
277:17	uniformly 335:8	276:9	359:12	285:8 301:1
279:12	unimaginable 350:3	289:18	vary 400:23	violation 255:23 256:9
300:2,3	United 254:18 256:1	309:21	Vehicles 296:20 305:7	257:13
302:4,11,12	257:7	316:12,21	305:10	268:25
315:13	304:23	318:11	verified 343:17	violations 256:3,4
325:14	305:17	328:7	344:16	virtually 281:25 307:3
326:8	329:14	329:21,21	375:4	Volume 247:7 401:9
327:24	331:8 380:9	341:16,17	verify 355:3	voluntary 256:17,18,21
333:8	units 386:8	366:3	Vermont 281:5 314:24	258:5
342:10	universities 337:1,19,20	371:21	Vermont-like 315:23	volunteer 257:24
347:3 359:5	337:23	374:12	Versalotti 310:24	volunteered 256:14
359:12	339:24	379:10	version 351:10	vote 255:25
361:3 398:8	340:1,18	usual 296:23	versus 260:12 281:5	258:15
understan... 248:19,25	university 255:10	305:14	284:10	259:4,9
266:11	280:22	usually 299:8 328:13	304:24	262:8,11
269:5,9	299:4 307:8	391:22	361:14	263:12,14
279:1 283:7	307:19	U.S 259:7 275:12	382:5	264:1
308:21	308:25	360:25	videotape 402:10	272:20
317:15	309:1	364:21	view 284:15	276:23
324:10	314:14,16	365:21	286:13	279:19
329:11	337:23	395:25	321:15	281:10
330:18	338:1,2,11		324:13	282:17
335:19	338:13		325:1	284:22
342:12	340:4,5,20		views 304:20	287:10,10
343:6,7	unnecessary 255:16	valid 270:9 305:19	317:24	287:15
346:10	unreasonable 351:9	321:20		290:15
361:11	unusual 326:25	335:9		291:16,17
383:5	update 374:23	339:17,20		291:19,22
undue 366:8 367:21	updated	364:20,22		293:2
376:20		371:23		
390:12		validated 270:10		
unfair 250:17		validation 269:25		
323:12		validly		
unfettered 264:1				



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294:20	384:8	334:11	255:5 258:23	394:10,14
295:13,22	394:19,20	335:13	259:2,3,21	395:5,16,17
295:24	394:24	336:23	275:22,25	395:23
296:22	voted	338:17	287:20	400:4
297:15	276:24	342:14,15	290:10,11	voting
298:1,5,10	316:24	342:18,22	292:5,6	254:12,16,22
305:13,17	360:11,13	342:23	305:1,15,18	255:15,23
305:18,22	360:17,21	343:8 345:5	306:1,13,17	256:3,9,15
308:6	373:22,25	345:7 349:2	306:22,25	257:13
312:20	374:5	350:12,24	308:10	258:10,19
313:25	378:23	351:4	311:24,25	258:25
314:4,19	voter	355:13,16	312:19	259:11
315:1,3	253:12,14,18	355:17,18	313:13,25	267:13
317:2 326:2	254:13	355:22	314:18,20	268:25
326:4,17,18	255:10,17	357:1,17,17	321:22	276:6
326:19,25	256:5,7,11	358:6 361:1	326:8	277:18,21
327:4,12,14	256:16,20	364:15	331:17,19	279:21
327:16,24	256:22	365:9,19,20	331:20	282:5
328:12,14	257:1,12,15	365:25	332:14,21	286:16
328:17	258:5,8,11	366:11,22	334:24	290:8 292:1
331:21,22	258:14,15	367:3,6,8,8	335:2,4,8	292:3,15
333:23	258:16,22	367:16	335:12	296:24
338:12,15	260:7 262:9	368:22	336:2,12,17	302:25
339:8	262:19	369:6 370:1	336:19,20	305:14,21
341:18	275:18	374:17,18	336:24,25	306:12,16
342:16	281:2,7	374:20	337:1,13	306:21,24
343:2	287:21	375:9,25	342:20,21	313:21
346:17	289:15	376:4,10,17	346:8	315:6 320:3
348:21	290:9 291:6	377:3,7	360:12	320:4,7,22
351:6	302:21	383:14	362:13	320:25
354:12	305:25	385:5	367:22	321:14
356:13	306:3 307:2	386:13,16	368:4,9,10	326:7
357:10,24	307:4,6,10	386:20,21	368:25	331:11
358:19,24	307:20,23	386:23	369:4,8,17	332:13,18
359:3	308:2,5,11	387:5,11	376:12	336:16
363:14	308:23	388:14,23	377:8 378:4	337:6
366:21,21	309:13	388:24,24	394:13,22	338:10
367:1,2	310:25	388:25	400:3	339:5
368:18,20	311:1,6,6	390:14	voter's	341:19
369:10,11	311:17,22	393:13,21	342:13	346:3
372:8,9	312:5,6,20	394:25	votes	348:20
373:22,23	314:25	395:4	260:1 309:11	359:21
374:25	316:13	396:16	368:11,12	366:14,15
377:1	322:3,5	397:4,4,4	369:17	366:18
379:21,22	323:18	398:23	370:17	368:15,16
379:23	325:7,18	399:6	371:5,9	368:17
380:4,5	326:5 329:2	400:11	372:21	374:14
381:2,14,20	331:8,15,21	voters	373:4	381:11,19
381:22,24				



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382:6 390:2	278:20,24	248:22 253:5	347:4,24	378:22
390:4,5	279:25	253:8 274:2	351:10	387:19
397:22	281:8 282:3	282:12	354:22	390:25
399:21,22	284:11	283:18	362:6	391:19
400:2,8,15	289:17	295:2	370:14	392:9
W	290:25	297:10	376:3	weren't
wait	291:13	299:19,24	379:25	267:23
292:3,4	293:2,6	329:21	381:1	293:11
waiting	297:18	348:7	394:16	294:20
273:19	299:4 301:7	358:10	395:21,24	295:6
walk	303:6,7	359:14	400:6	Wesley
273:23 274:6	345:11,13	362:17	ways	363:21 364:1
293:4	want	363:5,7	326:23	364:3 401:8
314:25	248:5 252:21	377:23	357:11	we'll
316:22	254:11	395:13	weak	253:22 293:4
317:12	266:9	wanting	309:21	294:9
walked	268:15	346:22	website	we're
293:7	270:20	wants	360:11	271:11,11,12
Walker	273:11	289:8 293:22	399:11,12	272:3
248:2 352:6	279:9 288:1	355:22	week	278:12
walking	288:4 289:7	wary	271:24	279:10
265:7 292:17	290:15	311:8	349:15,16	280:18,25
298:14	291:14	Washington	388:3	286:3,8
waller	292:20	255:8 275:10	400:25	294:14
254:4,10,17	293:19,20	278:9	weekend	297:10
255:14,23	295:6,9,14	279:17	339:6	302:7,12
256:2,4,8	302:4 304:9	324:6	weekly	303:13
256:12,25	308:14	392:17	333:5,16	319:23
257:8,11,17	314:12,17	wasn't	weeks	320:1,1
257:23	317:21	269:10	276:25 401:1	321:14
258:3,7,20	318:14	278:17	welcome	325:25
259:9,17,18	340:15	335:23	253:21	329:17
260:6,8,20	353:14	339:9	well-known	348:2
261:5,18,21	355:23	361:25	318:15	351:12,14
262:21	356:11,14	watch	went	351:19
263:19,21	357:5,12	267:3	260:14,14	355:11
264:12,14	358:18	way	271:25	377:17
267:16	359:10	249:22	276:22	380:11
269:1,3	362:7	275:12	279:3 280:3	397:18
270:21,24	369:23	280:2,3,20	280:4	400:10
271:23	372:17	281:2	281:23	we've
274:21	375:16	286:24	285:5,6	252:24
276:1,16,22	378:3	290:12	291:1,5	283:24
277:12	384:11	315:3	303:8,9	285:23
278:14,15	389:3 390:9	316:16	335:16,17	286:24
278:16,18	393:4	317:3 320:7	338:19,20	288:18
278:18,19	398:11	330:13	338:21	308:21,25
	wanted	344:13	376:3	309:7 321:7



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321:10	380:23	343:25	322:24	398:3, 4
350:1	wish	work	355:23	years
364:24	251:3, 4	312:23	382:2	254:15
365:2, 2	252:19	331:22	would've	255:20
367:8 370:2	313:18	332:5	376:5	260:16, 25
375:10	317:19	359:11, 12	Wright	264:10
384:2, 5, 22	withholding	359:14, 15	369:19	268:5, 23
390:9 393:5	265:8	359:16, 21	write	275:12, 16
393:20	witness	359:23	367:19	278:21, 22
395:8	248:9, 13	360:5 361:2	writing	285:5 299:6
wherewithal	250:9 252:6	worked	287:18	303:10
289:21	252:8, 10	288:19	written	323:21
whipper	274:22	294:17	257:25	324:10, 15
252:25	310:9	302:11	310:23	324:16
white	330:10, 11	331:16	327:25	326:10
260:11, 12, 14	343:21	worker	334:10	352:7, 24
260:16, 17	376:2 389:5	344:16 345:8	338:24	353:10
260:19	393:2	355:2 385:6	wrong	356:3
275:9	402:12	workers	261:7 276:21	367:22
283:25	witnesses	275:22	277:1 283:2	398:15, 19
284:5	248:13, 19	289:23, 24	284:15	399:20, 21
294:20	250:3, 6, 15	289:24	320:1, 20	year's
303:8	251:1, 4, 9	290:3	354:13	365:23
306:10, 12	251:10, 15	295:11	367:20	York
322:10	251:17, 22	331:18	wrongdoing	280:22
324:3, 14	252:3, 17, 20	334:24	268:24 283:8	young
331:12	253:16	335:7 344:2	wrongfully	252:25 291:2
338:17, 18	302:5	354:17	262:7	363:2
343:25	362:25	385:7, 21	wrote	younger
345:5	363:1	working	263:10, 13, 18	250:22
369:11	woke	277:2 291:3	263:25	you-all
whites	274:1	359:17	272:19	252:16
328:21	woman	388:11	274:23	261:17, 20
white-only	352:1 357:23	works	296:4, 13	297:24
382:10	358:20	347:17	323:20	353:20
wide	Women	worse	339:2	362:5 364:5
299:2	287:20	281:15	367:25	374:10
widely	wondered	282:20	378:3	375:7, 7
255:18	361:4, 5	284:23		386:9, 24
wife	wondering	worth	Y	
273:21	386:9	252:2 299:16	Yeah	\$
wiggle	woods	351:25	267:7 323:6	\$1.3
344:23	353:16, 25	353:18	330:16	280:1
William	word	357:14	372:19	\$100,000
281:23, 24	344:5 379:20	wouldn't	year	398:19
Williamsburg	words	288:24	284:7 304:23	\$15
281:25	284:20	311:19	311:15	333:22, 24
window	296:15	313:12	326:9 364:8	\$2



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333:6, 6 \$230,000 260:14 303:8 \$49.1 260:20 303:8 \$49.3 259:20 260:2 260:13 262:23	1,181 378:8 10 248:14 265:19, 25 277:10 315:4 327:11 335:11 399:22 1001 403:11 11 261:9 262:1 294:7 11th 262:18 1181 372:22 380:22, 24 12 261:9 375:6 375:10 12/31/2012 403:10 13 250:9 14 392:14 14th 332:17 140 369:8 15 247:21 251:2 268:5 296:15 322:10 15th 332:18 403:5 1500 325:11 155 371:18, 19 159 400:11 16	328:20 349:13 364:25 375:11 384:2 396:21 17 261:5 278:21 278:22 17th 257:6 17,366 372:21 378:6 17-millio... 260:22 18 328:23 1950 302:13 1964 317:12 329:6 1965 255:15 390:3 1972 275:9 283:19 283:22 1976 278:20 1979 259:9 275:13 1990 317:6 1990s 317:17 1994 321:8 1997 365:17 390:13 392:14	374:18 401:9 2,000 394:22 395:6 395:19 2.2 371:10 2.7 314:19 316:2 20 254:15 268:5 302:7 2000 307:21 334:13 360:11 2002 305:17 307:7 321:11 2004 263:4 274:23 275:1, 4 282:12 292:25 306:3 315:9 360:12 368:23 369:6 2005 281:14 334:2 360:1 2006 253:16 283:9 283:9 307:7 307:21 364:18 365:14, 16 388:8 390:6 391:22, 25 2007 266:23 364:11 365:1 367:9 388:10 391:1, 23 2008 254:14 255:2 256:1 257:6	257:21, 24 259:18 271:10, 11 275:5, 5 276:24 334:13, 17 360:14, 16 361:23 362:10 368:8, 22 369:7, 8, 10 371:7 2009 247:10 262:1 262:18 294:7 307:18 2012 247:21 403:6 209 402:3 230,000 260:21 24 369:13 24th 329:14 25 268:23 282:5 289:5 325:9 328:15, 16 385:2 253 291:14 254 275:23 28 314:18 <hr/> 3 <hr/> 3rd 248:7 3,000-dollar 276:6 3.9 368:11 372:20 378:3, 4
<hr/> 0 00019 371:4 0003 373:4 03 403:12 04 263:17, 24 282:15, 18 283:1 05 396:17 06 263:18 264:1 264:4, 6 392:2 396:17 07 392:2 396:18 396:25 08 377:1 09 283:12 <hr/> 1 1 260:15 267:15, 16 272:1 279:5 279:6 368:25 1st 257:24 1,000 291:6		<hr/> 2 2 247:7 307:13 309:13, 17 322:6 367:21		



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394:11,19	49.1	289:24	360:16
30	260:14	7.2	80,000
248:18,22,24	49.3-mill...	259:13	368:21
249:1	270:21	7:00	800
402:19	<hr/>	401:2,2,2	298:4,11
30(f)(1)	5	70	379:12,12
402:15	5	360:13	379:16
30-minute	256:9 390:2	700,000	380:5 384:8
362:16	5,000	368:11	805
308	281:10	71	403:11
372:25 373:1	5.8	360:17	810,000
378:10	368:9	369:10	313:24
3200	50	713) 524-4600	82
276:24	315:5 324:10	403:12	284:8
330579	525	720	<hr/>
247:1	276:4	399:20	9
35	54	75	9
275:15	260:25 285:5	368:8 377:7	322:10,13
362	303:10	7500	365:2
248:3 250:18	57	370:25 371:1	371:12
254:6	322:9 360:12	371:8	385:4
304:12	58	7541	90
330:8	322:13	370:24	284:8
331:25	<hr/>	76	900
3786	6	282:13	394:10,15
403:9	6	77002	92
394	247:10 402:3	403:11	368:17
394:12,15	6th	79	373:21,25
395:20	248:8	281:14	398:6,8
<hr/>	6:55	282:19	94
4	326:3	<hr/>	321:10
4th	60	8	97
263:4	302:13 391:3	8	370:2 392:9
40	391:5	328:21	393:21
250:14	600	368:19,19	396:16
394:15	276:23	369:12	98
409	65	8,000	352:7
370:24 371:1	369:12	275:23	98-year-old
371:15	66	8.3	352:1
42	360:13	394:12,20	99
369:11	67	395:4,20	325:11 356:3
45	360:11	8:00	
324:15	<hr/>	270:25 401:2	
397:25	7	8:05	
398:1	7th	273:19 274:3	
399:23,23	248:8	80	
400:1	7-dollar	352:24	



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TEXAS HOUSE OF REPRESENTATIVES

COMMITTEE MEETING ON ELECTIONS

APRIL 6, 2009

TRANSCRIBED ON APRIL 15, 2012



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JA_006189

TX_00031547

1 CHAIRMAN SMITH: At this time the Chair
2 calls Mary Scott, who is speaking on behalf of the
3 Associated -- American Association of Retired Persons of
4 Texas to testify against Senate Bill 362.

5 MS. SCOTT: Thank you, Mr. Chairman, and
6 members of the committee.

7 My name is Mary Scott, and I am the AARP
8 Texas state president and a 44-year resident of Fed for
9 Texas in Tarrant County.

10 AARP is a nonprofit, nonpartisan
11 organization dedicated to addressing the needs and
12 interests of Americans age 50 and older.

13 AARP has 2.4 million members here in Texas,
14 and they vote in high numbers. I've been a volunteer
15 with AARP for many years. I've served on AARP's
16 National Policy Council and the National Board of
17 Directors.

18 I'm also a life-long Texan, and I'm old
19 enough to be a Texan who paid a poll tax for over a
20 decade when I first started voting.

21 I worked with members of my generation to
22 eliminate the poll tax, and we do not want to see
23 barriers erected to prevent people from voting, which
24 would replace those things we fought so hard to get rid
25 of.



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1 Now, you might wonder why is AARP interested
2 in Texas' and other states' election laws. So, I
3 especially appreciate the opportunity to speak with you
4 today about our interest in those laws.

5 AARP views the right to vote as the most
6 basic of rights and encourages steps to engage all
7 eligible voters in the process.

8 In spite of these efforts, voter turnout in
9 Texas remains alarmingly low. In 2006, the last
10 gubernatorial election in Texas, only one in three
11 registered voters cast their vote.

12 In 2008, the last presidential election,
13 only 45 percent of the voting age population in Texas
14 cast their vote.

15 Now, given the low turnout rates in Texas
16 and across the United States, AARP would like to see law
17 makers do more to encourage participation in the whole
18 election process.

19 Older voters vote in disproportionately high
20 numbers. About one half of the voters in the November,
21 2006 and in the recent presidential elections were over
22 the age of 50, and AARP believes fair and simple
23 procedures help to maintain this high level of
24 participation in the Democratic process.

25 AARP does not support procedures that



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1 reflect partisan bias or that permit arbitrary or
2 discriminatory reviews or voter challenges that may
3 discourage turnout by older voters.

4 Of particular concern today are efforts to
5 enact voter ID requirements. AARP believes voter ID
6 laws, as enacted in other states, serve to discourage,
7 rather than encourage, participation of older voters in
8 the election process.

9 These requirements harken back to the days
10 before the Voting Rights Act when many people were
11 disenfranchised and they were barred from voting by
12 formal and informal measures, such as the poll taxes and
13 literacy tests.

14 At first glance, this type of voter ID law
15 that we're talking about may sound simple. It may
16 appear harmless. However, voter ID requirements pose a
17 real barrier for senior voters, who are our most
18 faithful voters.

19 It's not uncommon for birth certificates to
20 be lost and passports to expire. Fire, a move, a
21 hurricane or misplaced documents can all result in the
22 absence of the numerous documents typically required by
23 voter ID laws in other states.

24 With a voter ID requirement in place, the
25 wait time required to replicate the documents could,



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1 even without the cost involved, disenfranchise a voter
2 who has the misfortune to be without a birth certificate
3 or passport shortly before an election.

4 Further, allowing alternate forms of ID does
5 not make voter ID less onerous. Older citizens who are
6 living in a retirement or assisted living facility may
7 not even have an electricity bill or a phone bill in
8 their own names, and even if those documents are readily
9 available, people just don't carry them around in their
10 pockets.

11 But I think stories of real people make
12 cases and principles come alive, so, I want to tell you
13 about Antonio. He's a 50 year old Katrina evacuee who
14 settled in Fort Worth, and his -- I want to tell you
15 about his nearly two-year odyssey to get a Texas state
16 issued photo ID.

17 Antonio had no idea what he was in for when
18 he first went to the closest Texas DPS office to get a
19 Texas state ID card. He and his wife stayed in Fort
20 Worth after being evacuated before Katrina, and Fort
21 Worth is now home to them.

22 His ID ordeal started when he realized that
23 he should obtain a Texas state issued photo ID card just
24 before his Louisiana driver's license expired. Little
25 did he know it would take an intelligent, educated 50



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1 year old employed American citizen and veteran a year
2 and a half and many miles to get that increasingly
3 important state issued photo ID.

4 When Antonio first went to the DPS, he took
5 his still valid Louisiana issued state photo ID card,
6 his original Social Security card and his retired
7 military photo ID card issued by the U.S. government.

8 He waited in the usual lines only to be told
9 he didn't have the proper documentation of his identity.
10 I don't really think he had access to the Internet to
11 read those five pages on the DPS web site that tell you
12 what the requirements are.

13 Surprisingly, neither his Louisiana state
14 issued photo ID nor his Social Security card was
15 considered primary identification, nor are they
16 secondary identification. In Texas, they are mere
17 support for identification.

18 Antonio's retired military photo ID card
19 apparently isn't any kind of identification at all as
20 far as Texas is concerned.

21 So, he was told to go on his way and return
22 when he had proper documentation. Well, it took him
23 time to obtain his birth certificate from Georgia, where
24 he was born, and when he did get it, he walked back to
25 the same office with it, with his Louisiana photo ID,



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1 his original Social Security card and his retired U.S.
2 military photo ID.

3 Once again, he waited in line. The clerk
4 carefully looked over his documents and then decided
5 that the last letter of his first name looked to her
6 like an A and not an O, even though the certificate was
7 describing the birth of a male child.

8 Discussion of all the different forms of ID
9 that he had ensued but in the end, it was clear no
10 amount of reasoning was going to convince the clerk that
11 this was actually his birth certificate.

12 The clerk did suggest that since he was a
13 veteran, he could use his military records. So, getting
14 those military records took time.

15 When that one finally arrived, he walked
16 again back to the same DPS office with the military
17 records, his Louisiana photo ID, his original Social
18 Security card and his retired U.S. military photo ID
19 card and the certified copy of his birth certificate.

20 He thought this time would be it but in the
21 time it took him to get his military papers, the
22 driver's license division had changed their rules.
23 Military papers were not good enough.

24 This time the clerk's best suggestion to
25 Antonio was that he go to court and get his name changed



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1 to Antonia to match the clerk's opinion of the
2 handwriting -- the handwritten name on his birth
3 certificate.

4 So, he was again told to go away and return
5 when he had proper identification. Well, he had finally
6 had enough and he asked to speak to the sergeant in
7 charge.

8 He was told the sergeant was not in that day
9 and again was told to return when he had proper
10 documentation. Well, just then the sergeant walked in
11 the door.

12 A personal appeal from one veteran to
13 another resulted in a phone call, and he finally -- the
14 sergeant called Austin and he finally got a Texas ID.

15 I was struck by how easy it would be for a
16 clerk to turn away someone who had the same
17 circumstances that Antonio did or to turn them away
18 because they didn't think that the race or the gender or
19 the national origin looked good to them.

20 The issues being addressed in this
21 discussion are essentially an effort to strike a balance
22 between preventing election fraud and protecting and
23 maximizing our citizens' right to vote.

24 Where fraud exists, of course, it should be
25 prosecuted and punished but to date there's been little,



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412

1 if any, evidence of such fraudulent activities.

2 Without that evidence in the Texas election
3 system, there's no justification to jeopardize senior
4 Texans' rights to vote. Implementing new barriers to
5 voting, like voter ID requirements, seem to be a
6 solution in search of a problem.

7 We face some very serious challenges in
8 Texas today. AARP has all of these pages of priority
9 bills. We have a population -- a quarter of our
10 population who lack health insurance. We have mounting
11 job losses.

12 And we would really like to see our
13 legislature use its time in Austin -- its limited time
14 on something that actually is an issue.

15 So, I urge the Texas legislature to address
16 the real issues facing Texas families and to address the
17 real challenges in our election system.

18 The right to vote, along with full and fair
19 representation in the election process, is the most
20 basic of all political rights and it should be
21 protected.

22 Many of those who will be disenfranchised by
23 this legislation are those who most depend on government
24 to protect their rights.

25 So, please help to protect their right to



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TX_00031555

413

1 vote for you and other elected officials who have the
2 power to make such a difference in their lives.

3 Thank you.

4 CHAIRMAN SMITH: Thank you, Ms. Scott.

5 I'm going to be especially nice to this
6 constituent since she's -- I mean this witness since
7 she's mine.

8 We thank you for taking the time to come
9 down here today and share our views with the committee.

10 I want to ask you a few questions. I
11 presume -- and I don't expect you to have done this and
12 I'm presuming that a part of the mechanism by which you
13 determined the official position of the AARP of Texas
14 does not involve polling the 2.4 million members that
15 you have in Texas, is that fair?

16 MS. SCOTT: That's fair. The association
17 does a lot of polling of our members and of the public
18 but I don't think that we've actually done a poll of our
19 membership in Texas.

20 We are kind of like -- we're kind of in the
21 same situation you are. They write to us. We have had
22 responses since the Senate committee of the whole met
23 and all -- practically all those responses have been
24 positive about our presentation and the position we have
25 taken, and I think that's the situation you're often in.



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414

1 You're going to hear from them if they don't like what
2 you do.

3 CHAIRMAN SMITH: Do you think it's possible
4 that if you were to poll the 2.4 million members in your
5 organization and ask them even the question which is not
6 necessarily at issue today and, that is, do you think
7 that a photo identification should be a requirement in
8 the State of Texas, do you think it's possible that a
9 majority of them would answer that question in the
10 affirmative?

11 MS. SCOTT: I have no way of answering that
12 except to just say that the responses we have had since
13 the Senate action have indicated that we would probably
14 have them taking the same position we do but that's just
15 speculation.

16 CHAIRMAN SMITH: Okay. And the story
17 that -- again, you know, the story that you tell about
18 Antonio and his horrible experience with the Texas
19 bureaucracy is -- is -- is horrible, and I think
20 everybody on the committee here is sympathetic with the
21 situation that any Texan sometimes faces when they are
22 dealing with our bureaucracy in a variety of context
23 but, again, just as with the 98 year old woman and the
24 four star telegram where it is a wonderful illustration
25 of why I might disagree with some of my Republican



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415

1 colleagues about a hard and fast photo identification
2 requirement, it also embedded in the story indicated
3 that Antonio had a Social Security card despite the fact
4 that he was a hurricane victim and an evacuee, which
5 would be -- you know -- which would be all that was
6 required under this provision or this particular
7 legislation to allow him to vote.

8 And I think that's, again, an important
9 distinction to make between the Indiana law and the law
10 that is before us tonight as proposed by the Senate.

11 Any questions, members?

12 Yes, Representative Brown.

13 REPRESENTATIVE BROWN: Just one comment. I
14 think Antonio's story just points to the fact that we
15 could -- we could pass the most perfect law in the world
16 but those people who are out there implementing, we're
17 dependent on them doing the right thing and, you know,
18 imperfect people make bad decisions sometimes.

19 You know, we have to depend on those people
20 out there to enforce our laws or to implement them, and
21 so, just because of this bad experience, regardless of
22 how bad it was, it doesn't necessarily mean that that's
23 something that we don't want to pursue but thank you for
24 coming.

25 CHAIRMAN SMITH: Representative Dr. Allen.



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416

1 REPRESENTATIVE DR. ALLEN: Thank you, Mary,
2 for coming today and thank you for being up late with
3 us. I know us AARP members go to bed at 10:00 o'clock.

4 MS. SCOTT: Not these.

5 REPRESENTATIVE DR. ALLEN: And your story of
6 Antonio was a very poignant story. It happens all the
7 time, so, with that in mind, is the training and the
8 notice in the bill sufficient to assure older Texans to
9 be -- to make them aware of the new requirements? Do
10 you think the training that they mentioned in the bill
11 and the notice and I think it goes out on the back of
12 the registration card?

13 MS. SCOTT: I think we would still have
14 problems with that. I'm not satisfied that that would
15 be enough to help people overcome the barriers. We are
16 just opposed to erecting any more barriers to voting.

17 REPRESENTATIVE DR. ALLEN: What do you think
18 would be a barrier for a senior citizen or older citizen
19 to get an ID, other barriers, say, for example, like
20 Antonio?

21 MS. SCOTT: Well, I think you're looking at
22 people who may not have transportation to go and get
23 that first photo ID if they don't have it. They may no
24 longer be driving.

25 I think we're probably looking at a fair



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417

1 size population who find even -- you know, this still
2 would be expensive for them if they had to get their
3 birth certificate, if they had to pay for that ID,
4 although I know it's a reduced rate when you're over 65,
5 I believe it is, but we still feel that there would be
6 particular barriers for people who are older.

7 REPRESENTATIVE DR. ALLEN: Okay. I'll even
8 go to the Medicare card, which was one of the forms of
9 identification that you can use. Does Texas issue a
10 Medicare card?

11 MS. SCOTT: Well, the Medicare card comes
12 from the U.S. government, just like your Social Security
13 card does.

14 REPRESENTATIVE DR. ALLEN: One of the other
15 things, do all Social Security recipients get their
16 Social Security check in the mail? I don't.

17 MS. SCOTT: No. I -- at one time, I think
18 there -- I'm not sure whether this actually happened.
19 There was a proposal that they could no longer receive
20 them by mail.

21 REPRESENTATIVE DR. ALLEN: Right.

22 MS. SCOTT: But many of us do not get them
23 by mail.

24 REPRESENTATIVE DR. ALLEN: They go straight
25 into their account.



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418

1 MS. SCOTT: They go straight -- direct
2 deposit and special accounts were set up so those people
3 had access to that much banking.

4 REPRESENTATIVE DR. ALLEN: Do you have
5 knowledge to other states who implemented the photo ID
6 and some of the problems they may be having?

7 MS. SCOTT: Personally, I have not been
8 involved in that but I do know which states AARP has
9 litigation or been active with. We did file a brief in
10 the Indiana case. We -- our litigation unit has served
11 as co-counsel in the Georgia and Arizona cases and filed
12 Amicus briefs in Missouri and Michigan cases.

13 So, AARP's litigation department has been
14 quite involved in those states, and I'm sure that there
15 was advocacy action, too, as those proposals came up in
16 the legislatures.

17 REPRESENTATIVE DR. ALLEN: I heard you
18 mention the -- both persons residing in a nursing
19 home --

20 MS. SCOTT: Uh-huh.

21 REPRESENTATIVE DR. ALLEN: -- may or may not
22 have a utility bill. They do not have a utility bill
23 because their utilities are covered under their rents or
24 whatever they pay, am I right?

25 MS. SCOTT: That's right.



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419

1 REPRESENTATIVE DR. ALLEN: That's not a --

2 MS. SCOTT: And they may not even have phone
3 service.

4 REPRESENTATIVE DR. ALLEN: That's true.

5 MS. SCOTT: And someone who is perhaps on
6 Medicaid would not have the money to pay for a money.

7 REPRESENTATIVE DR. ALLEN: Absolutely.
8 Absolutely. Because some of those checks are pretty
9 small, aren't they?

10 MS. SCOTT: They are.

11 REPRESENTATIVE DR. ALLEN: They are. Mine
12 is \$62.

13 CHAIRMAN SMITH: Ms. Scott, does every
14 senior citizen -- everyone over 65 receive a Medicare
15 card?

16 MS. SCOTT: You know, I'm not sure. I know
17 you have to apply for it.

18 CHAIRMAN SMITH: Okay.

19 MS. SCOTT: So, if you don't apply, you
20 wouldn't have it. So, I wouldn't know what the
21 percentages are on those --

22 CHAIRMAN SMITH: That do not apply?

23 MS. SCOTT: Who do not apply. It's a very
24 small percentage who do not apply or who do not apply
25 for Social Security.



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420

1 CHAIRMAN SMITH: Sure. And, you know. I'm
2 trying to imagine -- while I presume there are a number
3 of situations where we can point to individuals who do
4 not have some form of photo identification on the list,
5 I don't know that that really is fair because I think
6 the question is how many do not have any form of
7 identification on the list, and you would agree with me
8 that insofar as we're talking about people in nursing
9 homes, et cetera, who may not get a water bill or an
10 electric bill, you don't -- do you know of any that do
11 not have a Medicare card?

12 (Inaudible.)

13 MS. SCOTT: Unless -- unless the teacher
14 themselves paid into Social Security or their spouse
15 did.

16 (Inaudible.)

17 MS. SCOTT: That's the Social Security.
18 However, they're eligible for the Medicare benefits
19 under the spouse's record.

20 CHAIRMAN SMITH: So, they do get Medicare.
21 Everybody over 65 is entitled to get Medicare --

22 MS. SCOTT: That's right.

23 CHAIRMAN SMITH: -- to the extent that they
24 apply?

25 MS. SCOTT: That's right.



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421

1 CHAIRMAN SMITH: Is that right? Okay. And
2 that is one of the things you can add in addition to
3 your voter's registration card.

4 (Inaudible.)

5 CHAIRMAN SMITH: Not Social Security.

6 UNIDENTIFIED SPEAKER: But you get Medicare.

7 CHAIRMAN SMITH: Not Social Security.
8 Different than Medicare.

9 MS. SCOTT: Yeah. Now teachers -- in fact,
10 we were doing that before I retired -- pay in to
11 Medicare, which makes them eligible to receive Medicare
12 benefits. It's not just on the spouse record, although
13 many of them are. They pay the Medicare tax, so, they
14 can receive the benefit.

15 CHAIRMAN SMITH: Do you know any senior
16 citizen who does not have any of the documents in
17 addition to the voter registration card listed among the
18 non -- nonphoto identification documents that would be
19 allowed under this law?

20 MS. SCOTT: Personally, I don't. You know,
21 you and I live in a very nice area. Most of my friends
22 are not some of the ones that we're concerned about in
23 other areas. And so, I think I just safely could not
24 say that.

25 I do know some people who are no longer able



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1 to drive and who don't hear well. And so, those people
2 may no longer have what we consider the main photo ID.

3 CHAIRMAN SMITH: And with regard to that
4 category of senior citizens that are past the driving
5 phase, I presume a large number of those people are
6 already voting, to the extent that they do vote, by
7 absent ballot, is that fair?

8 MS. SCOTT: Yes, unless they get someone to
9 take them to the polls.

10 CHAIRMAN SMITH: Right. And you do
11 understand that there's nothing in this law that changes
12 the requirements for absentee ballots?

13 MS. SCOTT: Right.

14 CHAIRMAN SMITH: Do you understand that?

15 MS. SCOTT: I guess I do. I've read the
16 bill but I'm not just familiar with --

17 CHAIRMAN SMITH: I'm representing to you
18 that doesn't change at all.

19 MS. SCOTT: I accept.

20 CHAIRMAN SMITH: Who's next? Representative
21 Anchia? Representative Helfin?

22 REPRESENTATIVE HELFIN: Yes, ma'am. If
23 there was provisions here -- first, let me ask this
24 question: And our population seems to be -- our
25 youngers are getting older and our elders are getting



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423

1 younger. Most people 65 and younger these days would
2 have some form of identification. Would that be a fair
3 statement?

4 MS. SCOTT: I think that would be true. I
5 think we would still have some cases where the
6 identification might be questioned, like if you have
7 people who have become homeless.

8 REPRESENTATIVE HELFIN: The gentleman you
9 mentioned, some problem?

10 MS. SCOTT: Yeah, some problem like that. I
11 don't have any idea how many of those there are.

12 REPRESENTATIVE HELFIN: So, if there was a
13 provision that exempted people born after 1944, which
14 would be basically 65, would that be a provision that we
15 could work with the older population? And we want to
16 make sure we guaranty their right to vote because my dad
17 fought in World War II, and I think that was very
18 important to him.

19 MS. SCOTT: Well, my concern there would be
20 how would you find out how old they actually are --

21 REPRESENTATIVE HELFIN: That's true.

22 MS. SCOTT: -- without requiring some
23 identification?

24 REPRESENTATIVE HELFIN: Maybe an affidavit
25 or something.



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1 MS. SCOTT: So, it seems to me you still
2 would require some identification or some manner of
3 determining the age if you're going to place it on that
4 basis.

5 REPRESENTATIVE HELFIN: Okay. But that
6 would be a consideration we should probably look at,
7 would you -- would you agree with that statement?

8 MS. SCOTT: Well, I hate to dictate to you
9 what you need to look at.

10 REPRESENTATIVE HELFIN: Agree with. Thank
11 you.

12 CHAIRMAN SMITH: Representative Anchia, did
13 you have questions?

14 REPRESENTATIVE ANCHIA: No.

15 CHAIRMAN SMITH: Any questions from any
16 members?

17 Okay. We're going to let you off easy.

18 MS. SCOTT: Fine. Thank you.

19 CHAIRMAN SMITH: I hope you're not driving
20 back tonight.

21 MS. SCOTT: Not tonight.

22 CHAIRMAN SMITH: Good. You all drive
23 safely.

24 MS. SCOTT: Thank you.

25 CHAIRMAN SMITH: All right. At this time



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425

1 the Chair calls Gary Bledsoe, who is authorized to speak
2 on behalf of the Texas NAACP, and is testifying against
3 Senate Bill 362.

4 MR. BLEDSOE: Mr. Chairman, how are you?

5 CHAIRMAN SMITH: I'm doing fine. How are
6 you?

7 MR. BLEDSOE: Pretty good. Thank you very
8 much.

9 CHAIRMAN SMITH: Please state your name and
10 who you represent.

11 MR. BLEDSOE: My name is Gary Bledsoe. I
12 represent the NAACP of Texas.

13 CHAIRMAN SMITH: Okay. Thank you. Please
14 proceed.

15 MR. BLEDSOE: Okay. Thank you.

16 I'd like to commend the members of the
17 committee for spending a great deal of time on this
18 issue.

19 I'd like to give a bit of background about
20 the NAACP so you will understand more so what our
21 position is and how we've arrived at our position.

22 You know, we're a nonpartisan organization.
23 We try to get both parties to compete for the African
24 American vote. That's essentially what our mission is.

25 And, you know, back years ago when Steve



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1 Rowlands had introduced a bill that required various
2 requirements regarding absentee ballots, we were very
3 much opposed to that. We gave testimony against that
4 legislation.

5 We knew that it was going to end up being a
6 real nightmare for African Americans and Latinos, and it
7 ended up being just that, and I would put this bill in
8 the same category as we do the Rowlands bill.

9 I think in understanding that dynamic in why
10 we feel the way that we do, we have to look at the
11 history, even the recent history of the African American
12 vote throughout the State of Texas.

13 What we've done, knowing that the Voting
14 Rights Act was going to be up for extension three years
15 ago, we held a number of hearings around the state to
16 identify voting irregularities and issues relating to
17 voter intimidation.

18 And also during each election cycle, we have
19 a statewide election hotline where we have lawyers and
20 law students that man the -- that man or person the line
21 to handle issues that arise around the state.

22 And let me say very clearly, there -- there
23 are enormous problems relating to intimidation of
24 African American voters that continue to happen. I want
25 to describe some of those for you because I think



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427

1 they're -- they're important.

2 If we look, for example, in -- and we've
3 seen hate crimes in Wharton County where individuals who
4 happen to be Anglo elected officials supporting African
5 American sheriff's candidate had their home burned down
6 simply because they were supporting the African American
7 candidate, and received a number of hate calls.

8 We have a number of instances in various
9 counties where individuals were registered to vote and
10 were not allowed to vote, were not given provisional
11 ballots.

12 We have had a number of instances where
13 individuals were wrongfully purged from rolls. We've
14 had a number of instances where individuals were
15 directed to the wrong polling places so that they would
16 not ultimately be able to vote.

17 We've had a number of instances where
18 individuals -- this past election in Bell County in
19 particular, there were a number of conflicts between
20 individual voters and individuals who were running the
21 actual polling sites.

22 I know that state law changed the way that
23 individuals are selected to run and handle different
24 polling location has been changed and there has been
25 some serious animosity in a number of communities



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428

1 between those individuals running the polling sites and
2 African American voters, and we are very concerned with
3 all of this information.

4 And there's just -- there's just so much
5 more, you know, with the use of police, the use of
6 mailboxes and putting intimidation mailers in individual
7 mailboxes in Tarrant County, saying if you show up to
8 vote, we're going to have you arrested if there's an
9 outstanding warrant, giving people misinformation about
10 whether a person who has served their time on a felony,
11 whether parole or probation, when they're off time,
12 you're able to vote in Texas, with putting
13 misinformation in mailboxes. It goes on and on.

14 And one of the problems we've had at a
15 number of polling sites is that in minority polling
16 sites, there are too few ballots that are actually
17 given, and so, you find when there are too few ballots
18 and there are not enough polling stations at the polling
19 sites, this causes lines to be very long.

20 And we know that when you have a community
21 of working persons that that community doesn't have
22 indefinite periods of time in which to be there and to
23 vote, and so, therefore, when they're there, if it takes
24 more time, then that's going to be problematic.

25 And one thing that is absolutely clear is



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